

1 fingerprint requirements in certain
2 circumstances; amending s. 497.143, F.S.;
3 prohibiting preneed sales under a limited
4 license; amending s. 497.144, F.S.; requiring a
5 challenger to pay the costs for failure to
6 appear at a challenge hearing; amending s.
7 497.149, F.S.; revising terminology; amending
8 s. 497.151, F.S.; revising applicability;
9 specifying what is deemed to be a complaint;
10 amending s. 497.152, F.S.; revising
11 disciplinary provisions; revising applicability
12 in other jurisdictions; revising certain
13 grounds for disciplinary action; specifying
14 what is deemed to be a complaint; providing
15 exceptions to remittance deficiency
16 disciplinary infractions; amending s. 497.153,
17 F.S.; providing for the use of consent orders
18 in certain circumstances; amending s. 497.158,
19 F.S.; revising fine amounts; amending s.
20 497.159, F.S.; revising criminal provisions
21 relating to prelicensure examinations, willful
22 obstruction, trust funds, and specified
23 violations; providing penalties; revising what
24 constitutes improper discrimination; amending
25 s. 497.161, F.S.; removing a provision allowing
26 board members to serve as experts in
27 investigations; specifying standing of
28 licensees to challenge rules; amending s.
29 497.166, F.S.; specifying who may act as a
30 preneed sales agent; providing responsibility
31 of certain licensees; amending s. 497.169,

1 F.S.; revising a provision for award of
2 attorney's fees and costs in certain actions;
3 creating s. 497.171, F.S.; providing
4 requirements for the identification of human
5 remains; amending s. 497.260, F.S.; revising
6 what constitutes improper discrimination by
7 cemeteries; amending s. 497.263, F.S.; revising
8 the applicability of certain application
9 procedures for licensure of cemetery companies;
10 amending s. 497.264, F.S.; revising
11 requirements relating to applicants seeking to
12 acquire control of a licensed cemetery;
13 amending s. 497.281, F.S.; revising
14 requirements for licensure of burial rights
15 brokers; amending s. 497.368, F.S.; revising
16 grounds for issuance of licensure as an
17 embalmer by examination; amending s. 497.369,
18 F.S.; revising grounds for issuance of
19 licensure as an embalmer by endorsement;
20 amending s. 497.373, F.S.; revising grounds for
21 issuance of licensure as a funeral director by
22 examination; amending s. 497.374, F.S.;
23 revising grounds for issuance of licensure as a
24 funeral director by endorsement; amending s.
25 497.376, F.S.; revising authority to issue a
26 combination license as a funeral director and
27 embalmer; authorizing the licensing authority
28 to establish certain rules; amending s.
29 497.380, F.S.; revising certain requirements
30 for funeral establishments; providing
31 requirements for reporting a change in location

1 of the establishment; amending s. 497.385,
2 F.S.; revising application requirements for
3 licensure of a removal service or a
4 refrigeration service; providing requirements
5 for change in location of removal services and
6 refrigeration services; authorizing the
7 licensing authority to adopt certain rules for
8 centralized embalming facility operations;
9 revising application requirements for licensure
10 of a centralized embalming facility; providing
11 for inspection of centralized embalming
12 facilities; providing for change in ownership
13 and change in location of centralized embalming
14 facilities; amending s. 497.453, F.S.; revising
15 net worth requirements for preneed licensure;
16 specifying authority to accept alternative
17 evidence of financial responsibility in lieu of
18 net worth regarding preneed licensure
19 applicants; providing preneed license renewal
20 fees for monument establishments; revising
21 grounds for issuance of a preneed branch
22 license; amending s. 497.456, F.S.; revising
23 use of the Preneed Funeral Contract Consumer
24 Protection Trust Fund by the licensing
25 authority; amending s. 497.458, F.S.; revising
26 requirements to loan or invest trust funds;
27 amending s. 497.466, F.S.; revising application
28 procedures for preneed sales agents; creating
29 s. 497.468, F.S.; providing for disclosure of
30 information to the public; amending s. 497.550,
31 F.S.; revising application procedures for

1 licensure as a monument establishment; amending
2 s. 497.551, F.S.; revising requirements for
3 renewal of monument establishment licensure;
4 amending s. 497.552, F.S.; revising facility
5 requirements for monument establishments;
6 amending s. 497.553, F.S.; providing
7 requirements for change of ownership and
8 location of monument establishments; amending
9 s. 497.554, F.S.; revising application
10 procedure and renewal requirements for monument
11 establishment sales representatives; deferring
12 application of section; amending s. 497.555,
13 F.S.; revising requirements for rules
14 establishing minimum standards for access to
15 cemeteries; amending s. 497.602, F.S.; revising
16 application procedures for direct disposer
17 licensure; amending s. 497.604, F.S.; revising
18 provisions concerning direct disposal
19 establishment licensure and application for
20 licensure and regulation of direct disposal
21 establishments; amending s. 497.606, F.S.;
22 revising provisions concerning cinerator
23 facility licensure and application for
24 licensure and regulation of cinerator
25 facilities; amending s. 497.607, F.S.;
26 providing for publication of rules regarding
27 cremation by chemical means; amending s. 152,
28 ch. 2004-301, Laws of Florida; specifying
29 applicability of rules; amending s. 626.785,
30 F.S.; revising a policy coverage limit;
31 amending s. 163.3187, F.S.; prohibiting a local

1 government from approving an amendment to its
2 adopted comprehensive plan which allows a
3 funeral establishment, cremation facility, or
4 other noncemetery facility to be located on
5 cemetery lands; repealing s. 497.275, F.S.,
6 relating to identification of human remains in
7 licensed cemeteries; repealing s. 497.388,
8 F.S., relating to identification of human
9 remains; repealing s. 497.556, F.S., relating
10 to requirements relating to monument
11 establishments; providing an effective date.
12

13 Be It Enacted by the Legislature of the State of Florida:
14

15 Section 1. Section 497.005, as amended by chapter
16 2004-301, Laws of Florida, is amended to read:

17 497.005 Definitions.--As used in this chapter:

18 (1) "Alternative container" means an unfinished wood
19 box or other nonmetal receptacle or enclosure, without
20 ornamentation or a fixed interior lining, which is designed
21 for the encasement of human remains and which is made of
22 fiberboard, pressed wood, composition materials (with or
23 without an outside covering), or like materials ~~a nonmetal~~
24 ~~receptacle or enclosure which is less expensive than a casket~~
25 ~~and of sufficient strength to be used to hold and transport a~~
26 ~~dead human body.~~

27 (2) "At-need solicitation" means any uninvited contact
28 by a licensee or her or his agent for the purpose of the sale
29 of burial services or merchandise to the family or next of kin
30 of a person after her or his death has occurred.
31

1 (3) "Bank of belowground crypts" means any
2 construction unit of belowground crypts which is acceptable to
3 the department and which a cemetery uses to initiate its
4 belowground crypt program or to add to existing belowground
5 crypt structures.

6 (4) "Belowground crypts" consist of interment space in
7 preplaced chambers, either side by side or multiple depth,
8 covered by earth and sod and known also as "lawn crypts,"
9 "westminsters," or "turf-top crypts."

10 (5) "Board" means the Board of Funeral, Cemetery, and
11 Consumer Services.

12 ~~(6) "Body parts" means:~~

13 ~~(a) Limbs or other portions of the anatomy which are~~
14 ~~removed from a person or human remains for medical purposes~~
15 ~~during treatment, surgery, biopsy, autopsy, or medical~~
16 ~~research; or~~

17 ~~(b) Human bodies or any portions of human bodies which~~
18 ~~have been donated to science for medical research purposes.~~

19 ~~(6)(7)~~ "Burial merchandise," "funeral merchandise," or
20 "merchandise" means any personal property offered or sold by
21 any person for use in connection with the final disposition,
22 memorialization, interment, entombment, or inurnment of human
23 remains or cremated remains, including, but not limited to,
24 caskets, outer burial containers, alternative containers,
25 cremation containers, cremation interment containers, urns,
26 monuments, private mausoleums, flowers, benches, vases,
27 acknowledgment cards, register books, memory folders, prayer
28 cards, and clothing.

29 ~~(7)(8)~~ "Burial right" means the right to use a grave
30 space, mausoleum, columbarium, ossuary, or scattering garden
31

1 for the interment, entombment, inurnment, or other disposition
2 of human remains.

3 ~~(8)(9)~~ "Burial service," "funeral service," "funeral,"
4 or "service" means any service offered or provided by any
5 person in connection with the final disposition,
6 memorialization, interment, entombment, or inurnment of human
7 remains.

8 ~~(9)(10)~~ "Care and maintenance" means the perpetual
9 process of keeping a cemetery and its lots, graves, grounds,
10 landscaping, roads, paths, parking lots, fences, mausoleums,
11 columbaria, vaults, crypts, utilities, and other improvements,
12 structures, and embellishments in a well-cared-for and
13 dignified condition, so that the cemetery does not become a
14 nuisance or place of reproach and desolation in the community.
15 As specified in the rules of the licensing authority, "care
16 and maintenance" may include, but is not limited to, any or
17 all of the following activities: mowing the grass at
18 reasonable intervals; raking and cleaning the grave spaces and
19 adjacent areas; pruning of shrubs and trees; suppression of
20 weeds and exotic flora; and maintenance, upkeep, and repair of
21 drains, water lines, roads, buildings, and other improvements.
22 "Care and maintenance" may include, but is not limited to,
23 reasonable overhead expenses necessary for such purposes,
24 including maintenance of machinery, tools, and equipment used
25 for such purposes. "Care and maintenance" may also include
26 repair or restoration of improvements necessary or desirable
27 as a result of wear, deterioration, accident, damage, or
28 destruction. "Care and maintenance" does not include expenses
29 for the construction and development of new grave spaces or
30 interment structures to be sold to the public.

31

1 ~~(10)~~~~(11)~~ "Casket" means a rigid container which is
2 designed for the encasement of human remains and which is
3 usually constructed of wood or metal, ornamented, and lined
4 with fabric.

5 ~~(11)~~~~(12)~~ "Cemetery" means a place dedicated to and
6 used or intended to be used for the permanent interment of
7 human remains. A cemetery may contain land or earth interment;
8 mausoleum, vault, or crypt interment; a columbarium, ossuary,
9 scattering garden, or other structure or place used or
10 intended to be used for the interment or disposition of
11 cremated remains; or any combination of one or more of such
12 structures or places.

13 ~~(12)~~~~(13)~~ "Cemetery company" means any legal entity
14 that owns or controls cemetery lands or property.

15 ~~(13)~~~~(14)~~ "Centralized embalming facility" means a
16 facility, ~~not physically connected with a funeral~~
17 ~~establishment,~~ in which embalming takes place, which operates
18 independently of a funeral establishment licensee, and which
19 offers embalming services to funeral directors for a fee.

20 ~~(14)~~~~(15)~~ "Cinerator" means a facility where dead human
21 bodies are subjected to cremation. ~~reduced to a residue,~~
22 ~~including bone fragments, by direct flame, also known as~~
23 ~~"cremation," or by intense heat, also known as "calcination."~~

24 ~~(15)~~~~(16)~~ "Closed container" means any container in
25 which cremated remains can be placed and closed in a manner so
26 as to prevent leakage or spillage of the remains.

27 ~~(16)~~~~(17)~~ "Columbarium" means a structure or building
28 which is substantially exposed above the ground and which is
29 intended to be used for the inurnment of cremated remains.

30
31

1 ~~(17)(18)~~ "Common business enterprise" means a group of
2 two or more business entities that share common ownership in
3 excess of 50 percent.

4 ~~(18)(19)~~ "Control" means the possession, directly or
5 indirectly, through the ownership of voting shares, by
6 contract, arrangement, understanding, relationship, or
7 otherwise, of the power to direct or cause the direction of
8 the management and policies of a person or entity. However, a
9 person or entity shall not be deemed to have control if the
10 person or entity holds voting shares, in good faith and not
11 for the purpose of circumventing this definition, as an agent,
12 bank, broker, nominee, custodian, or trustee for one or more
13 beneficial owners who do not individually or as a group have
14 control.

15 ~~(19)(20)~~ "Cremated remains" means all the remains of
16 the human body recovered after the completion of the cremation
17 process, including processing or pulverization which leaves
18 only bone fragments reduced to unidentifiable dimensions and
19 may include the residue of any foreign matter, including
20 casket material, bridgework, or eyeglasses that were cremated
21 with the human remains.

22 ~~(20)(21)~~ "Cremation" means any mechanical or thermal
23 process whereby a dead human body is reduced to ashes and bone
24 fragments. Cremation also includes any other mechanical or
25 thermal process whereby human remains are pulverized, burned,
26 recremated, or otherwise further reduced in size or quantity
27 ~~the technical process, using direct flame and heat or chemical~~
28 ~~means, which reduces human remains to bone fragments through~~
29 ~~heat and evaporation. Cremation includes the processing and~~
30 ~~usually includes the pulverization of the bone fragments.~~

1 ~~(21)(22)~~ "Cremation chamber" means the enclosed space
2 within which the cremation process takes place. Cremation
3 chambers covered by these procedures must be used exclusively
4 for the cremation of human remains.

5 ~~(22)(23)~~ "Cremation container" means the casket or
6 alternative container in which the human remains are
7 transported to and placed in the cremation chamber for a
8 cremation. A cremation container should meet substantially all
9 of the following standards:

10 (a) Be composed of readily combustible materials
11 suitable for cremation.

12 (b) Be able to be closed in order to provide a
13 complete covering for the human remains.

14 (c) Be resistant to leakage or spillage.

15 (d) Be rigid enough to be handled with ease.

16 (e) Be able to provide protection for the health,
17 safety, and personal integrity of crematory personnel.

18 ~~(23)(24)~~ "Cremation interment container" means a rigid
19 outer container that, subject to a cemetery's rules and
20 regulations, is composed of concrete, steel, fiberglass, or
21 some similar material in which an urn is placed prior to being
22 interred in the ground and that is designed to support the
23 earth above the urn.

24 ~~(24)(25)~~ "Department" means the Department of
25 Financial Services.

26 ~~(25)(26)~~ "Direct disposal establishment" means a
27 facility licensed under this chapter where a direct disposer
28 practices direct disposition.

29 ~~(26)(27)~~ "Direct disposer" means any person licensed
30 under this chapter to practice direct disposition in this
31 state.

1 (27)~~(28)~~ "Director" means the director of the Division
2 of Funeral, Cemetery, and Consumer Services.

3 (28)~~(29)~~ "Disinterment" means removal of a dead human
4 body from earth interment or aboveground interment.

5 (29)~~(30)~~ "Division" means the Division of Funeral,
6 Cemetery, and Consumer Services within the Department of
7 Financial Services.

8 (30)~~(31)~~ "Embalmer" means any person licensed under
9 this chapter to practice embalming in this state.

10 (31)~~(32)~~ "Final disposition" means the final disposal
11 of a dead human body by earth interment, aboveground
12 interment, cremation, burial at sea, or delivery to a medical
13 institution for lawful dissection if the medical institution
14 assumes responsibility for disposal. "Final disposition" does
15 not include the disposal or distribution of ashes and residue
16 of cremated remains.

17 ~~(33) "Funeral" or "funeral service" means the~~
18 ~~observances, services, or ceremonies held to commemorate the~~
19 ~~life of a specific deceased human being and at which the human~~
20 ~~remains are present.~~

21 (32)~~(34)~~ "Funeral director" means any person licensed
22 under this chapter to practice funeral directing in this
23 state.

24 (33)~~(35)~~ "Funeral establishment" means a facility
25 licensed under this chapter where a funeral director or
26 embalmer practices funeral directing or embalming.

27 ~~(36) "Funeral merchandise" or "merchandise" means any~~
28 ~~merchandise commonly sold in connection with the funeral,~~
29 ~~final disposition, or memorialization of human remains,~~
30 ~~including, but not limited to, caskets, outer burial~~
31 ~~containers, alternative containers, cremation containers,~~

1 ~~cremation interment containers, urns, monuments, private~~
2 ~~mausoleums, flowers, benches, vases, acknowledgment cards,~~
3 ~~register books, memory folders, prayer cards, and clothing.~~

4 ~~(34)(37)~~ "Grave space" means a space of ground in a
5 cemetery intended to be used for the interment in the ground
6 of human remains.

7 ~~(35)(38)~~ "Human remains" or "remains," or "dead human
8 body" or "dead human bodies," means the body of a deceased
9 human person for which a death certificate or fetal death
10 certificate is required under chapter 382 and includes the
11 body in any stage of decomposition ~~and the residue of cremated~~
12 ~~human bodies.~~

13 ~~(36)(39)~~ "Legally authorized person" means, in the
14 priority listed, the decedent, when written ~~inter vivos~~
15 authorizations and directions are provided by the decedent in
16 his or her will; the surviving spouse, unless the spouse has
17 been arrested for committing against the deceased an act of
18 domestic violence as defined in s. 741.28 which resulted in or
19 contributed to the death of the deceased; a son or daughter
20 who is 18 years of age or older; a parent; a brother or sister
21 who is 18 years of age or older; a grandchild who is 18 years
22 of age or older; a grandparent; or any person in the next
23 degree of kinship. In addition, the term may include, if no
24 family member exists or is available, the guardian of the dead
25 person at the time of death; the personal representative of
26 the deceased; the attorney in fact of the dead person at the
27 time of death; the health surrogate of the dead person at the
28 time of death; a public health officer; the medical examiner,
29 county commission, or administrator acting under part II of
30 chapter 406 or other public administrator; a representative of
31 a nursing home or other health care institution in charge of

1 final disposition; or a friend or other person not listed in
2 this subsection who is willing to assume the responsibility as
3 the legally authorized person. Where there is a person in any
4 priority class listed in this subsection, the funeral
5 establishment shall rely upon the authorization of any one
6 legally authorized person of that class if that individual
7 represents that she or he is not aware of any objection to the
8 cremation of the deceased's human remains by others in the
9 same class of the person making the representation or of any
10 person in a higher priority class.

11 ~~(37)~~(40) "License" includes all authorizations
12 required or issued under this chapter, except where expressly
13 indicated otherwise, and shall be understood to include
14 authorizations previously referred to as registrations or
15 certificates of authority in chapters 470 and 497 as those
16 chapters appeared in the 2004 edition of the Florida Statutes.

17 ~~(38)~~(41) "Licensee" means the person or entity holding
18 any license or other authorization issued under this chapter,
19 except where expressly indicated otherwise.

20 ~~(39)~~(42) "Mausoleum" means a structure or building
21 which is substantially exposed above the ground and which is
22 intended to be used for the entombment of human remains.

23 ~~(40)~~(43) "Mausoleum section" means any construction
24 unit of a mausoleum which is acceptable to the department and
25 which a cemetery uses to initiate its mausoleum program or to
26 add to its existing mausoleum structures.

27 ~~(41)~~(44) "Monument" means any product used for
28 identifying a grave site and cemetery memorials of all types,
29 including monuments, markers, and vases.

30 ~~(42)~~(45) "Monument establishment" means a facility
31 that operates independently of a cemetery or funeral

1 establishment and that offers to sell monuments or monument
2 services to the public for placement in a cemetery.

3 ~~(43)~~~~(46)~~ "Net assets" means the amount by which the
4 total assets of a licensee, excluding goodwill, franchises,
5 customer lists, patents, trademarks, and receivables from or
6 advances to officers, directors, employees, salespersons, and
7 affiliated companies, exceed total liabilities of the
8 licensee. For purposes of this definition, the term "total
9 liabilities" does not include the capital stock, paid-in
10 capital, or retained earnings of the licensee.

11 ~~(44)~~~~(47)~~ "Net worth" means total assets minus total
12 liabilities pursuant to generally accepted accounting
13 principles.

14 ~~(45)~~~~(48)~~ "Niche" means a compartment or cubicle for
15 the memorialization or permanent placement of a container or
16 urn containing cremated remains.

17 ~~(46)~~~~(49)~~ "Ossuary" means a receptacle used for the
18 communal placement of cremated remains without benefit of an
19 urn or any other container in which cremated remains may be
20 commingled with other cremated remains and are nonrecoverable.
21 It may or may not include memorialization.

22 ~~(47)~~~~(50)~~ "Outer burial container" means an enclosure
23 into which a casket is placed and includes, but is not limited
24 to, vaults made of concrete, steel, fiberglass, or copper;
25 sectional concrete enclosures; crypts; and wooden enclosures.

26 ~~(48)~~~~(51)~~ "Person," when used without qualification
27 such as "natural" or "individual," includes both natural
28 persons and legal entities.

29 ~~(49)~~~~(52)~~ "Personal residence" means any residential
30 building in which one temporarily or permanently maintains her
31 or his abode, including, but not limited to, an apartment or a

1 hotel, motel, nursing home, convalescent home, home for the
2 aged, or a public or private institution.

3 ~~(50)(53)~~ "Practice of direct disposition" means the
4 cremation of human remains without preparation of the human
5 remains by embalming and without any attendant services or
6 rites such as funeral or graveside services or the making of
7 arrangements for such final disposition.

8 ~~(51)(54)~~ "Practice of embalming" means disinfecting or
9 temporarily preserving or attempting to disinfect or
10 temporarily preserve dead human bodies by replacing certain
11 body fluids with preserving and disinfecting chemicals.

12 ~~(52)(55)~~ "Practice of funeral directing" means the
13 performance by a licensed funeral director of any of those
14 functions authorized by s. 497.372.

15 ~~(53)(56)~~ "Preneed contract" means any arrangement or
16 method, of which the provider of funeral merchandise or
17 services has actual knowledge, whereby any person agrees to
18 furnish funeral merchandise or service in the future.

19 ~~(54)(57)~~ "Preneed sales agent" means any person who is
20 licensed under this chapter to sell preneed burial or funeral
21 service and merchandise contracts or direct disposition
22 contracts in this state.

23 ~~(55)(58)~~ "Principal" means and includes the sole
24 proprietor of a sole proprietorship; all partners of a
25 partnership; all members of a limited liability company;
26 regarding a corporation, all directors and officers, and all
27 stockholders controlling more than 10 percent of the voting
28 stock; and all other persons who can exercise control over the
29 person or entity.

30 ~~(56)(59)~~ "Processing" means the reduction of
31 identifiable bone fragments after the completion of the

1 cremation process to unidentifiable bone fragments by manual
2 means.

3 ~~(57)(60)~~ "Profession" and "occupation" are used
4 interchangeably in this chapter. The use of the word
5 "profession" in this chapter with respect to any activities
6 regulated under this chapter shall not be deemed to mean that
7 such activities are not occupations for other purposes in
8 state or federal law.

9 ~~(58)(61)~~ "Pulverization" means the reduction of
10 identifiable bone fragments after the completion of the
11 cremation and processing to granulated particles by manual or
12 mechanical means.

13 ~~(59)(62)~~ "Refrigeration facility" means a facility
14 that is operated independently of ~~not physically connected~~
15 ~~with~~ a funeral establishment, crematory, or direct disposal
16 establishment, that maintains space and equipment for the
17 storage and refrigeration of dead human bodies, and that
18 offers its service to funeral directors, ~~and~~ funeral
19 establishments, direct disposers, direct disposal
20 establishments, or crematories for a fee.

21 ~~(60)(63)~~ "Religious institution" means an organization
22 formed primarily for religious purposes which has qualified
23 for exemption from federal income tax as an exempt
24 organization under the provisions of s. 501(c)(3) of the
25 Internal Revenue Code of 1986, as amended.

26 ~~(61)(64)~~ "Removal service" means any service that
27 operates independently of a funeral establishment or a direct
28 disposal establishment, that handles the initial removal of
29 dead human bodies, and that offers its service to funeral
30 establishments and direct disposal establishments for a fee.

31

1 ~~(62)~~(65) "Rules" refers to rules adopted under this
2 chapter unless expressly indicated to the contrary.

3 ~~(63)~~(66) "Scattering garden" means a location set
4 aside, within a cemetery, which is used for the spreading or
5 broadcasting of cremated remains that have been removed from
6 their container and can be mixed with or placed on top of the
7 soil or ground cover or buried in an underground receptacle on
8 a commingled basis and that are nonrecoverable. It may or may
9 not include memorialization.

10 ~~(64)~~(67) "Servicing agent" means any person acting as
11 an independent contractor whose fiduciary responsibility is to
12 assist both the trustee and licensee in administrating their
13 responsibilities pursuant to this chapter.

14 ~~(65)~~(68) "Solicitation" means any communication which
15 directly or implicitly requests an immediate oral response
16 from the recipient.

17 ~~(66)~~(69) "Statutory accounting" means generally
18 accepted accounting principles, except as modified by this
19 chapter.

20 ~~(67)~~(70) "Temporary container" means a receptacle for
21 cremated remains usually made of cardboard, plastic, or
22 similar material designated to hold the cremated remains until
23 an urn or other permanent container is acquired.

24 ~~(68)~~(71) "Urn" means a receptacle designed to
25 permanently encase cremated remains.

26 Section 2. Subsection (2) of section 497.101, Florida
27 Statutes, as amended by chapter 2004-301, Laws of Florida, is
28 amended, and subsection (8) is added to that section, to read:

29 497.101 Board of Funeral, Cemetery, and Consumer
30 Services; membership; appointment; terms.--
31

1 (2) Two members of the board must be funeral directors
2 licensed under part III of this chapter who are associated
3 with a funeral establishment. One member of the board must be
4 a funeral director licensed under part III of this chapter who
5 is associated with a funeral establishment licensed under part
6 III of this chapter which has a valid preneed license issued
7 pursuant to this chapter and who owns or operates a cinerator
8 facility approved under chapter 403 and licensed under part VI
9 of this chapter. Two members of the board must be persons
10 whose primary occupation is associated with a cemetery company
11 licensed pursuant to this chapter. Three members of the board
12 must be consumers who are residents of the state, have never
13 been licensed as funeral directors or embalmers, are not
14 connected with a cemetery or cemetery company licensed
15 pursuant to this chapter, and are not connected with the death
16 care industry or the practice of embalming, funeral directing,
17 or direct disposition. One of the consumer members must be at
18 least 60 years of age, and one must be licensed as a certified
19 public accountant under chapter 473. One member of the board
20 must be a monument dealer licensed under this chapter. One
21 member must be the State Health Officer or her or his
22 designee. There shall not be two or more board members who are
23 ~~principals or directors,~~ employees, ~~partners, shareholders, or~~
24 ~~members~~ of the same company or partnership or group of
25 companies or partnerships under common control.

26 (8) The department shall adopt rules establishing
27 forms with which persons may apply for membership on the board
28 and procedures for applying for such membership. Such forms
29 shall require disclosure of the existence and nature of all
30 current and past employments by or contracts with, and direct
31 or indirect affiliations or interests in, any entity or

1 business that at any time was licensed by the board or by the
2 former Board of Funeral and Cemetery Services or the former
3 Board of Funeral Directors and Embalmers or that is or was
4 otherwise involved in the death care industry, as specified by
5 department rule.

6 Section 3. Paragraph (m) of subsection (2) of section
7 497.103, Florida Statutes, as amended by chapter 2004-301,
8 Laws of Florida, is amended, and paragraph (e) is added to
9 subsection (4) of that section, to read:

10 497.103 Rulemaking authority of board and
11 department.--

12 (2) DEPARTMENT AUTHORITY.--All authority provided by
13 this chapter and not expressly vested in the board by
14 subsection (1) is vested in the department, and the department
15 shall be deemed to be the licensing authority as to such
16 matters. Without limiting the generality of the foregoing
17 vesting of authority in the department, the authority provided
18 by this chapter which is vested solely in the department
19 includes:

20 (m) Authority to take emergency action against any
21 licensee under this chapter, without prior consultation with
22 the board, when the department determines that there is an
23 imminent danger to the health, safety, or welfare of the
24 citizens of the state.

25 (4) RECOMMENDATIONS BY THE CHIEF FINANCIAL OFFICER.--

26 (e) The Chief Financial Officer shall have no
27 authority by recommendation or otherwise to set fees, rates,
28 or prices to be used by any licensee under this chapter, and
29 notwithstanding the provision of this subsection, no licensee
30 under this chapter shall in any event be required to set fees,
31

1 rates, or prices in accordance with any recommendation of the
2 Chief Financial Officer.

3 Section 4. Paragraphs (b) and (c) of subsection (1) of
4 section 497.140, Florida Statutes, as renumbered and amended
5 by section 10 of chapter 2004-301, Laws of Florida, is amended
6 to read:

7 497.140 Fees.--

8 (1)

9 (b) It is the legislative intent that the costs of
10 regulation under this chapter be provided for by fees
11 collected under this chapter. The board shall ensure that fees
12 are adequate to cover all anticipated costs of implementation
13 of this chapter. The department shall at least every other
14 year provide the board with estimates as to projected costs in
15 implementing this chapter and projected fee collections under
16 this chapter for the following 2 years, information as to
17 balances of regulatory trusts from fees collected, other
18 information which the department deems material to the setting
19 of fees by the board at proper levels, and a department
20 recommendation as to action, if any, regarding changing fee
21 levels. The board shall review such information provided by
22 the department and make such changes in fees, up or down, as
23 the board determines appropriate. If sufficient action is not
24 taken by the board within 6 months ~~1 year~~ after notification
25 by the department that fees are projected to be inadequate,
26 the department shall set fees on behalf of the board to cover
27 anticipated costs.

28 (c) The board may from time to time by rule assess and
29 collect a one-time fee from each active and each voluntary
30 inactive licensee under this chapter in an amount necessary to
31 correct an inadequacy of fees received to implement regulation

1 required by this chapter, provided that no such assessments
2 may be made after October 1, 2009 ~~more than one such~~
3 ~~assessment may be made in any 4 year period without specific~~
4 ~~legislative authorization.~~

5 Section 5. Subsection (2) of section 497.141, Florida
6 Statutes, as created by chapter 2004-301, Laws of Florida, is
7 amended, and subsection (12) is added to that section, to
8 read:

9 497.141 Licensing; general application procedures.--

10 (2) Any person desiring to be licensed shall apply to
11 the licensing authority in writing using such forms and
12 procedures as may be prescribed by rule. The application for
13 licensure shall include the applicant's social security number
14 if applicant is a natural person, or otherwise the applicant's
15 federal tax identification number. Notwithstanding any other
16 provision of law, the department is the sole authority for
17 determining the forms and form contents to be submitted for
18 initial licensure and licensure renewal application. Such
19 forms and the information and materials required by such forms
20 may include, as appropriate, demographics, education, work
21 history, personal background, criminal history, finances,
22 business information, signature notarization, performance
23 periods, reciprocity, local government approvals, supporting
24 documentation, periodic reporting requirements, fingerprint
25 requirements, continuing education requirements, business
26 plans, character references, and ongoing education monitoring.
27 Such forms and the information and materials required by such
28 forms may also include, to the extent such information or
29 materials are not already in the possession of the department
30 or the board, records or information as to complaints,
31 inspections, investigations, discipline, bonding, and

1 | photographs. The application shall be supplemented as needed
2 | to reflect any material change in any circumstance or
3 | condition stated in the application which takes place between
4 | the initial filing of the application and the final grant or
5 | denial of the license and which might affect the decision of
6 | the department or the board.

7 | (12)(a) The following licenses may be applied for and
8 | issued only to a natural person:

- 9 | 1. Embalmer apprentice.
- 10 | 2. Embalmer intern.
- 11 | 3. Funeral director intern.
- 12 | 4. Funeral director.
- 13 | 5. Funeral director and embalmer.
- 14 | 6. Direct disposer.
- 15 | 7. Monument establishment sales agent.
- 16 | 8. Preneed sales agent.

17 | (b) The following licenses may be applied for and
18 | issued to a natural person, a corporation, a limited liability
19 | company, or a partnership:

- 20 | 1. Funeral establishment.
- 21 | 2. Centralized embalming facility.
- 22 | 3. Refrigeration facility.
- 23 | 4. Direct disposal establishment.
- 24 | 5. Monument establishment.
- 25 | 6. Cinerator facility.
- 26 | 7. Removal service.
- 27 | 8. Preneed sales business under s. 497.453.

28 | (c) A cemetery license may be applied for and issued
29 | only to a corporation, partnership, or limited liability
30 | company.

31 |

1 (d) No license shall be issued to any applicant that
2 is a corporation, limited liability company, or partnership
3 unless the applicant is organized and in good standing under
4 the laws of Florida or another state of the United States and
5 provides written proof of same issued by the applicable state
6 office or official in the state concerned. Each applicant that
7 is a corporation, limited liability company, or partnership
8 shall file with its application a written statement, signed by
9 the same person who signs the application, identifying by name
10 and business functional title the following persons, as
11 applicable to the type of entity applying: officers, managers,
12 managing members, partners, general partners, limited
13 partners, managing partners, directors, all stockholders
14 controlling more than 10 percent of the voting stock, and all
15 other persons who can exercise control over the applicant. The
16 licensing authority may require the filing of applicant's
17 articles of incorporation or other organizational documents
18 and a resume concerning any person identified pursuant to this
19 paragraph.

20 (e) All applications shall be signed by the applicant.
21 Signatures of the applicant shall be as follows:

22 1. Where the applicant is a natural person, the
23 application shall be signed by applicant.

24 2. Where the applicant is a corporation, the
25 application shall be signed by the corporation's president.

26 3. Where the applicant is a partnership, the
27 application shall be signed by a partner, who shall provide
28 proof satisfactory to the licensing authority of that
29 partner's authority to sign on behalf of the partnership.

30 4. Where the applicant is a limited liability company,
31 the application shall be signed by a member of the company,

1 who shall provide proof satisfactory to the licensing
2 authority of that member's authority to sign on behalf of the
3 company.

4 (f) The licensing authority shall have authority to
5 adopt rules for the implementation of this section, including
6 required procedures and forms.

7 (g) No license regulated under this chapter is
8 assignable or transferable except as provided in this chapter.

9 Section 6. Section 497.142, Florida Statutes, as
10 created by chapter 2004-301, Laws of Florida, is amended to
11 read:

12 497.142 Licensing; fingerprinting and criminal
13 background checks.--

14 (1) In any instance that this chapter requires
15 submission of fingerprints in connection with an application
16 for license, the provisions of this section shall apply.

17 (2) The fingerprints must be taken by a law
18 enforcement agency or other agency or entity approved by the
19 department and in such a way as to allow their use to obtain a
20 criminal history check through the Department of Law
21 Enforcement.

22 (3) The department shall submit the fingerprints to or
23 cause them to be submitted to the Department of Law
24 Enforcement for the purpose of ascertaining whether the person
25 fingerprinted has a criminal history in any state or before
26 the Federal Government and, if so, the nature of the criminal
27 history.

28 (4) The Department of Law Enforcement may accept
29 fingerprints of any applicant under this chapter, any
30 principal of any such applicant, and any other person who is
31

1 examined or investigated or who is subject to examination or
2 investigation under the provisions of this chapter.

3 (5) The Department of Law Enforcement may, to the
4 extent provided for by federal law, exchange state,
5 multistate, and federal criminal history records with the
6 department and the board for the purpose of the issuance,
7 denial, suspension, or revocation of any license or other
8 application under this chapter.

9 ~~(6) The Department of Law Enforcement may accept~~
10 ~~fingerprints of any other person required by statute or rule~~
11 ~~to submit fingerprints to the department or board or any~~
12 ~~applicant or licensee regulated by the department or board who~~
13 ~~is required to demonstrate that she or he has not been~~
14 ~~convicted of or pled guilty or nolo contendere to a felony or~~
15 ~~a misdemeanor.~~

16 (6)(7) The Department of Law Enforcement shall, upon
17 receipt of fingerprints from the department, submit the
18 fingerprints to the Federal Bureau of Investigation to check
19 federal criminal history records.

20 (7)(8) Statewide criminal records obtained through the
21 Department of Law Enforcement, federal criminal records
22 obtained through the Federal Bureau of Investigation, and
23 local criminal records obtained through local law enforcement
24 agencies shall be used by the department and board for the
25 purpose of issuance, denial, suspension, or revocation of
26 ~~certificates of authority, certifications, or licenses issued~~
27 to operate in this state.

28 (8)(9) For the purposes of criminal background checks,
29 applicants and principals of applicants for any approval or
30 license under this chapter may be required to disclose whether
31

1 they have ever had their name legally changed and any prior
2 name or names they have used.

3 ~~(9)(10)~~ If any applicant under this chapter has been,
4 within the 10 years preceding the application under this
5 chapter, convicted or found guilty of, or entered a plea of
6 nolo contendere to, regardless of adjudication, any crime in
7 any jurisdiction, the application shall not be deemed complete
8 until such time as the applicant provides such certified true
9 copies of the court records evidencing the conviction,
10 finding, or plea, as the licensing authority may by rule
11 require.

12 (10)(a) When applying for any license under this
13 chapter, every applicant shall be required to disclose the
14 applicant's criminal records in accordance with this
15 subsection.

16 (b) The criminal record required to be disclosed shall
17 be any crime listed in paragraph (c) of which the person or
18 entity required to make disclosure has been convicted or to
19 which that person or entity entered a plea in the nature of no
20 contest. Disclosure shall be required pursuant to this
21 subsection regardless of whether adjudication was entered or
22 withheld by the court in which the case was prosecuted.

23 (c) Crimes to be disclosed are:

24 1. Any felony or misdemeanor, no matter when
25 committed, which was directly or indirectly related to or
26 involving any aspect of the practice or business of funeral
27 directing, embalming, direct disposition, cremation, funeral
28 or cemetery preneed sales, funeral establishment operations,
29 cemetery operations, or cemetery monument or marker sales or
30 installation.

31

1 2. Any other felony not already disclosed under
2 subparagraph 1. which was committed within the 20 years
3 immediately preceding the application under this chapter.

4 3. Any other misdemeanor not already disclosed under
5 subparagraph 1. which was committed within the 5 years
6 immediately preceding the application under this chapter.

7 (d) Criminal records falling within paragraphs (b) and
8 (c) shall be disclosed regardless of whether the criminal
9 conduct occurred inside or outside the state and regardless of
10 whether the criminal prosecution occurred in state court or
11 the court of another state, the United States, or a foreign
12 country. As to crimes prosecuted in courts other than the
13 courts of this state, the designation of the crime as a felony
14 or misdemeanor by the law of the jurisdiction prosecuting the
15 crime shall control. If the prosecuting jurisdiction does not
16 use the term "felony" or "misdemeanor" in classifying the
17 crime, the crime shall be deemed a felony for purposes of this
18 subsection if punishable under the law of the prosecuting
19 jurisdiction by a term of imprisonment in excess of 1 year;
20 otherwise the crime shall be classified as a misdemeanor for
21 purposes of this subsection. Excessive speed in the operation
22 of a motor vehicle and other noncriminal traffic infractions
23 are not required to be reported under this section.

24 (e) For purposes of this subsection, the persons
25 required to make disclosure of their criminal records in
26 relation to an application shall be as follows:

27 1. Where the applicant is a natural person, only the
28 natural person making application has the duty to disclose.

29 2. Where the applicant is a corporation, all officers
30 and directors of that corporation have the duty to disclose.

31

1 3. Where the applicant is a limited liability company,
2 all managers and members of the limited liability company have
3 the duty to disclose.

4 4. Where the applicant is a partnership, all partners
5 have the duty to disclose.

6 5. Where the applicant is required by this chapter to
7 identify in the application the individual licensee under this
8 chapter who will be in charge of the applicant, the identified
9 individual licensee in charge must make disclosure of criminal
10 records as part of the application, in addition to the
11 applicant.

12 (f) In addition to persons identified in paragraph (e)
13 as being required to provide a criminal history in relation to
14 an application for licensure, the department may during its
15 prelicensing investigation of the applicant pursuant to
16 subsection (3), on a case by case basis, require disclosure of
17 criminal records from any other employee or principal of the
18 applicant if the department has grounds to believe that such
19 employee or principal has committed any crime and that the
20 person's relationship to the applicant may render the
21 applicant a danger to the public if the license applied for is
22 issued.

23 (g) The licensing authority may adopt rules specifying
24 forms and procedures to be used by persons required to
25 disclose criminal records under this subsection. The licensing
26 authority may conduct investigation and further inquiry of any
27 person regarding any criminal record disclosed pursuant to
28 this section.

29 (11)(a) Whenever in this chapter an applicant is
30 required to submit fingerprints in applying for a license, the
31

1 persons whose fingerprints must be submitted shall be as
2 follows:

3 1. Where the applicant is a natural person, the
4 fingerprints of the natural person making application.

5 2. Where the applicant is a corporation, the
6 fingerprints of the persons serving in the following
7 capacities: chief executive officer and president, or both
8 persons if the positions are filled by different persons;
9 chief financial officer; chief of operations; general counsel
10 if a corporation employee; and members of the board.

11 3. Where the applicant is a limited liability company,
12 the fingerprints of all managers and members of the limited
13 liability company.

14 4. Where the applicant is a partnership, the
15 fingerprints of all partners.

16 (b) In addition to persons identified in paragraph (a)
17 as being required to provide fingerprints, the department may
18 during its prelicensing investigation of the applicant
19 pursuant to subsection (3), on a case by case basis, require
20 fingerprints from any other employee of the applicant, if the
21 department has grounds to believe that any such person may
22 have committed any crime and that the person's relationship to
23 the applicant may render the applicant a danger to the public
24 if the license applied for is issued.

25 (12) The licensing authority may by rule establish
26 forms, procedures, and fees for the submission and processing
27 of fingerprints required to be submitted in accordance with
28 this chapter. The licensing authority may by rule waive the
29 requirement for submission of fingerprints otherwise required
30 by this chapter if the person has within the preceding 24
31 months submitted fingerprints to the licensing authority and

1 the licensing authority has obtained a criminal history report
2 using those prior fingerprints.

3 Section 7. Subsection (2) of section 497.143, Florida
4 Statutes, as created by chapter 2004-301, Laws of Florida, is
5 amended to read:

6 497.143 Licensing; limited licenses for retired
7 professionals.--

8 (2) Any person desiring to obtain a limited license,
9 when permitted by rule, shall submit to the department an
10 application and fee, not to exceed \$300, and an affidavit
11 stating that the applicant has been licensed to practice in
12 any jurisdiction in the United States for at least 10 years in
13 the profession for which the applicant seeks a limited
14 license. The affidavit shall also state that the applicant has
15 retired or intends to retire from the practice of that
16 profession and intends to practice only pursuant to the
17 restrictions of the limited license granted pursuant to this
18 section. If the applicant for a limited license submits a
19 notarized statement from the employer stating that the
20 applicant will not receive monetary compensation for any
21 service involving the practice of her or his profession, the
22 application and all licensure fees shall be waived. In no
23 event may a person holding a limited license under this
24 section engage in preneed sales under such limited license.

25 Section 8. Subsection (13) of section 497.144, Florida
26 Statutes, as created by chapter 2004-301, Laws of Florida, is
27 amended to read:

28 497.144 Licensing; examinations, general provisions.--

29 (13) When any licensed applicant under this chapter
30 requests a hearing to challenge a decision that the
31 applicant's answer to any licensure test question was not a

1 correct answer, or to seek a determination that a challenged
2 question should be struck, unless the ~~an~~ applicant notifies
3 the department at least 5 days prior to the ~~an~~ examination
4 hearing of the applicant's inability to attend or unless the
5 ~~an~~ applicant can demonstrate an extreme emergency for failing
6 to attend, the department may require the ~~an~~ applicant who
7 fails to attend to pay reasonable attorney's fees, costs, and
8 court costs of the department for the examination hearing.

9 Section 9. Paragraph (c) of subsection (1) of section
10 497.149, Florida Statutes, as created by chapter 2004-301,
11 Laws of Florida, is amended to read:

12 497.149 Investigations, hearings, and inspections.--

13 (1) INVESTIGATIONS.--Investigations shall be conducted
14 by the department. The following provisions shall apply
15 concerning investigations:

16 (c) If the department finds any accounts or records of
17 a licensee required by this chapter to be created and
18 maintained by the licensee to be inadequate or inadequately
19 kept or posted, it may employ experts to reconstruct, rewrite,
20 post, or balance them at the expense of the person being
21 investigated, provided the person has failed to maintain,
22 complete, or correct such records or accounting after the
23 department has given the licensee ~~her or him~~ notice and a
24 reasonable opportunity to do so.

25 Section 10. Subsection (1) of section 497.151, Florida
26 Statutes, as created by chapter 2004-301, Laws of Florida, is
27 amended, and subsection (4) is added to that section, to read:

28 497.151 Complaints; logs; procedures.--

29 (1) This section shall be applicable to all licensed
30 entities under this chapter ~~licensees under this chapter~~
31 ~~except preneed sales agent licensees.~~

1 (4) For purposes of this section, the response of a
2 customer recorded by the customer on a customer satisfaction
3 questionnaire or survey form sent to the customer by the
4 licensee, and returned by the customer to the licensee, shall
5 not be deemed to be a complaint.

6 Section 11. Section 497.152, Florida Statutes, as
7 created by chapter 2004-301, Laws of Florida, is amended to
8 read:

9 497.152 Disciplinary grounds.--This section sets forth
10 conduct which is prohibited and which shall constitute grounds
11 for denial of any application, imposition of discipline, or
12 ~~and~~ other enforcement action against the licensee or other
13 person committing such conduct. For purposes of this section,
14 the requirements of this chapter include the requirements of
15 rules adopted under authority of this chapter. No subsection
16 heading in this section shall be interpreted as limiting the
17 applicability of any paragraph within the subsection.

18 (1) GENERAL PROVISIONS.--The generality of the
19 provisions of this subsection shall not be deemed to be
20 limited by the provisions of any other subsection.

21 (a) Violating any provision of this chapter or any
22 lawful order of the board or department or of the statutory
23 predecessors to the board or department.

24 (b) Committing fraud, deceit, negligence,
25 incompetency, or misconduct in the practice of any of the
26 activities regulated under this chapter.

27 (c) Failing while holding a license under this chapter
28 to maintain one or more of the qualifications for such
29 license.

30
31

1 (d) Refusing to sell or issue a contract or provide
2 services to any person because of the person's race, color,
3 creed, marital status, sex, or national origin.

4 (2) CRIMINAL ACTIVITY.--Being convicted or found
5 guilty of, or entering a plea of nolo contendere to,
6 regardless of adjudication, a crime in any jurisdiction which
7 relates to the practice of, or the ability to practice, a
8 licensee's profession or occupation under this chapter.

9 (3) DISCIPLINARY ACTION BY OTHER AUTHORITIES.--Having
10 a license or the authority to practice a profession or
11 occupation revoked, suspended, fined, denied, or otherwise
12 acted against or disciplined by the licensing authority of
13 another ~~any~~ jurisdiction, including its agencies or
14 subdivisions, for conduct that would constitute a violation of
15 this chapter if committed in this state or upon grounds which
16 directly relate to the ability to practice under this chapter.
17 The licensing authority's acceptance of a relinquishment of
18 licensure, stipulation, consent order, or other settlement
19 offered in response to or in anticipation of the filing of
20 charges against the license shall be construed as action
21 against the license.

22 (4) OBLIGATIONS TO REGULATORS AND OTHER GOVERNMENT
23 AGENCIES.--

24 (a) Improperly interfering with an investigation or
25 inspection authorized by statute or with any disciplinary
26 proceeding.

27 (b) Failure to comply with a lawfully issued subpoena
28 of the department.

29 (c) Refusal to produce records to the department or
30 board in connection with any activity regulated pursuant to
31 this chapter.

1 (d) Failing to report to the department any person who
2 the licensee knows is in violation of this chapter.

3 (e) Knowingly concealing information relative to
4 violations of this chapter.

5 (f) Attempting to obtain, obtaining, or renewing a
6 license under this chapter by bribery, false or forged
7 evidence, or misrepresentation, or through an error of the
8 department or board known to the applicant.

9 (g) Making or filing a report or statement to or with
10 any government entity which the licensee knows or has reason
11 to know to be false; or intentionally or negligently failing
12 to file a report or record required to be filed with any
13 government entity, or willfully impeding or obstructing
14 another person to do so, or inducing another person to impede
15 or obstruct such filing.

16 (h) Failing to perform any statutory or legal
17 obligation placed upon a licensee.

18 (5) LIMITATIONS ON SCOPE OF PRACTICE; UNLICENSED
19 PRACTICE.--

20 (a) Practicing or offering to practice beyond the
21 scope permitted by this chapter and rules adopted under this
22 chapter for the type of licensure held or accepting and
23 performing professional responsibilities the licensee knows,
24 or has reason to know, the licensee is not competent to
25 perform.

26 (b) Practicing or attempting to practice with a
27 revoked, suspended, inactive, or delinquent license.

28 (c) Representing as her or his own the license of
29 another.

30 (d) Aiding, assisting, procuring, employing, or
31 advising any person or entity to practice a profession or

1 occupation regulated by this chapter without required
2 licensure under this chapter.

3 (e) Aiding, assisting, procuring, employing, or
4 advising any person or entity to operate or in operating an
5 establishment regulated by this chapter without the required
6 licensure under this chapter.

7 (f) Delegating to any person the performance of
8 professional activities, or contracting with any person for
9 the performance of professional activities by such person,
10 when the licensee knows or has reason to know the person is
11 not qualified by training, experience, and authorization to
12 perform such responsibilities.

13 (g) Using the name or title "funeral director,"
14 "embalmer," "direct disposer," or other title suggesting
15 licensure which the person using such name or title does not
16 hold.

17 (h) Engaging by a direct disposer in the practice of
18 direct burial or offering the at-need or preneed service of
19 direct burial.

20 (6) EDUCATIONAL REQUIREMENTS.--

21 (a) Failing to comply with applicable educational
22 course requirements pursuant to this chapter or rules adopted
23 under this chapter regarding human immunodeficiency virus and
24 acquired immune deficiency syndrome.

25 (b) Failing to timely comply with applicable
26 continuing education requirements of this chapter.

27 (7) RELATIONS WITH OTHER LICENSEES.--

28 (a) Having been found liable in a civil proceeding for
29 knowingly filing a false report or complaint against another
30 licensee with the department or the board.

31

1 (b) Making any misleading statements or
2 misrepresentations as to the financial condition of any
3 person, or which are falsely and maliciously critical of any
4 person for the purpose of damaging that person's business
5 regulated under this chapter.

6 (8) TRANSPORT, CUSTODY, TREATMENT, OR DISINTERMENT OF
7 HUMAN REMAINS.--

8 (a) Violation of any state law or rule or any
9 municipal or county ordinance or regulation affecting the
10 handling, custody, care, or transportation of dead human
11 bodies.

12 (b) Refusing to surrender promptly the custody of a
13 dead human body upon the express order of the person legally
14 authorized to its custody; however, this provision shall be
15 subject to any state or local laws or rules governing custody
16 or transportation of dead human bodies.

17 (c) Taking possession of a dead human body without
18 first having obtained written or oral permission from a
19 legally authorized person. If oral permission is granted, the
20 licensee must obtain written permission within a reasonable
21 time as established by rule.

22 (d) Embalming human remains without first having
23 obtained written or oral permission from a legally authorized
24 person; however, washing and other public health procedures,
25 such as closing of the orifices by placing cotton soaked in a
26 disinfectant in such orifices until authorization to embalm is
27 received, shall not be precluded. If oral permission is
28 granted, the licensee must obtain written permission within a
29 reasonable time as established by board rule.

30 (e) Failing to obtain written authorization from the
31 family or next of kin of the deceased prior to entombment,

1 interment, disinterment, disentombment, or disinurnment of the
2 remains of any human being.

3 (9) SALES PRACTICES IN GENERAL.--

4 (a) Soliciting by the licensee, or by her or his
5 agent, assistant, or employee, through the use of fraud, undue
6 influence, intimidation, overreaching, or other means which
7 takes advantage of a customer's ignorance or emotional
8 vulnerability.

9 (b) Exercising undue influence on a client for the
10 purpose of financial gain of the licensee or a third party in
11 connection with any transaction regulated by this chapter.

12 (c) Discouraging a customer's purchase of any funeral
13 merchandise or service which is advertised or offered for
14 sale, with the purpose of encouraging the purchase of
15 additional or more expensive merchandise or service, by
16 disparaging its quality or appearance, except that true
17 factual statements concerning features, design, or
18 construction do not constitute disparagement; by
19 misrepresenting its availability or any delay involved in
20 obtaining it; or by suggesting directly or by implication that
21 a customer's concern for price or expressed interest in
22 inexpensive funeral merchandise or services is improper,
23 inappropriate, or indicative of diminished respect or
24 affection for the deceased.

25 (d) Misrepresenting the benefits, advantages,
26 conditions, or terms of any contract to provide any services
27 or merchandise regulated under this chapter.

28 (e) Advertising goods and services in a manner that is
29 fraudulent, deceptive, or misleading in form or content.

30 (f) Directly or indirectly making any deceptive,
31 misleading, or untrue representations, whether oral or

1 | written, or employing any trick, scheme, or artifice, in or
2 | related to the practice of a profession or occupation
3 | regulated under this chapter, including in the advertising or
4 | sale of any merchandise or services related to the practice of
5 | the profession or occupation.

6 | (10) SPECIFIC MISREPRESENTATIONS.--

7 | (a) Making any false or misleading statement of the
8 | legal requirement as to the necessity of any particular burial
9 | or funeral merchandise or services.

10 | (b) Making any oral, written, or visual
11 | representations, directly or indirectly, that any funeral
12 | merchandise or service is offered for sale when such is not a
13 | bona fide offer to sell such merchandise or service.

14 | (c) Making any misrepresentation for the purpose of
15 | inducing, or tending to induce, the lapse, forfeiture,
16 | exchange, conversion, or surrender of any preneed contract or
17 | any life insurance policy pledged or assigned to secure
18 | payment for funeral or burial goods or services.

19 | (d) Misrepresenting pertinent facts or prepaid
20 | contract provisions relating to funeral or burial merchandise
21 | or services.

22 | (e) Misrepresenting the amount advanced on behalf of a
23 | customer for any item of service or merchandise, including,
24 | but not limited to, cemetery or crematory services,
25 | pallbearers, public transportation, clergy honoraria, flowers,
26 | musicians or singers, nurses, obituary notices, gratuities,
27 | and death certificates, described as cash advances,
28 | accommodations, or words of similar import on the contract,
29 | final bill, or other written evidence of agreement or
30 | obligation furnished to customers; however, nothing in this
31 | paragraph shall require disclosure of a discount or rebate

1 | which may accrue to a licensee subsequent to making a cash
2 | advance.

3 | (f) Making any false or misleading statement or claim
4 | that natural decomposition or decay of human remains can be
5 | prevented or substantially delayed by embalming, use of a
6 | gasketed or ungasketed casket, or use of an adhesive or
7 | nonadhesive closure on an outer burial container.

8 | (g) Making any false or misleading statement, oral or
9 | written, directly or indirectly, regarding any law or rule
10 | pertaining to the preparation for disposition, transportation
11 | for disposition, or disposition of dead human bodies.

12 | (h) Making any false or misleading statements of the
13 | legal requirement as to the conditions under which
14 | preservation of a dead human body is required or as to the
15 | necessity of a casket or outer burial container.

16 | (11) SPECIFIC SALES PRACTICES.--

17 | (a) Failing to furnish, for retention, to each
18 | purchaser of burial rights, burial or funeral merchandise, or
19 | burial or funeral services a written agreement, the form of
20 | which has been previously approved if and as required by this
21 | chapter, which lists in detail the items and services
22 | purchased together with the prices for the items and services
23 | purchased; the name, address, and telephone number of the
24 | licensee; the signatures of the customer and the licensee or
25 | her or his representative; and the date signed.

26 | (b) Filling in any contract form for use with a
27 | particular customer, using language that ~~Using any name or~~
28 | ~~title in any contract regulated under this chapter which~~
29 | misrepresents the true nature of the contract.

30 | (c) Selling an irrevocable preneed contract to a
31 | person who is not an applicant for or recipient of

1 Supplemental Security Income or Aid to Families with Dependent
2 Children or pursuant to s. 497.459(6)(a).

3 (d) Except as authorized in part IV of this chapter,
4 guaranteeing the price of goods and services at a future date.

5 (e) Requiring that a casket be purchased for cremation
6 or claiming directly or by implication that a casket is
7 required for cremation.

8 (f) When displaying any caskets for sale, failing to
9 display the least expensive casket offered for sale or use in
10 adult funerals in the same general manner as the funeral
11 service industry member's other caskets are displayed.

12 (g) Assessing fees and costs that have not been
13 disclosed to the customer in connection with any transaction
14 regulated by this chapter.

15 (h) Failure by a cemetery licensed under this chapter
16 to provide to any person, upon request, a copy of the cemetery
17 bylaws.

18 (i) Requirements by a cemetery licensee that lot
19 owners or current customers make unnecessary visits to the
20 cemetery company office for the purpose of solicitation.

21 (12) DISCLOSURE REQUIREMENTS.--

22 (a) Failure to disclose, when such disclosure is
23 desired, the components of the prices for alternatives offered
24 by the licensee from whom disclosure is requested, such as
25 graveside service, direct disposition, and body donation
26 without any rites or ceremonies prior to the delivery of the
27 body and prices of service if there are to be such after the
28 residue has been removed following the use thereof.

29 (b) Failing to furnish, for retention, to anyone who
30 inquires in person about burial rights, burial or funeral
31 merchandise, or burial or funeral services, before any

1 | discussion of selection, a printed or typewritten list
2 | specifying the range of retail prices for such rights,
3 | merchandise, or services. At a minimum, the list shall itemize
4 | the highest and lowest priced product and service regularly
5 | offered and shall include the name, address, and telephone
6 | number of the licensee and statements that the customer may
7 | choose only the items the customer desires, that the customer
8 | will be charged for only those items selected, and that there
9 | may be other charges for other items or other services.

10 | (c) Failing to reasonably provide by telephone, upon
11 | request, accurate information regarding the retail prices of
12 | funeral merchandise and services offered for sale by that
13 | licensee.

14 | (d) Failure by a funeral director to make full
15 | disclosure in the case of a funeral or direct disposition with
16 | regard to the use of funeral merchandise which is not to be
17 | disposed of with the body or failure to obtain written
18 | permission from the purchaser regarding disposition of such
19 | merchandise.

20 | (e) Failure by any funeral director to fully disclose
21 | all of her or his available services and merchandise prior to
22 | the selection of a casket offered by a licensee. The full
23 | disclosure required shall identify what is included in the
24 | funeral or direct disposition and the prices of all services
25 | and merchandise provided by the licensee or registrant.

26 | (f) Failing to have the price of any casket offered
27 | for sale clearly marked on or in the casket, whether the
28 | casket is displayed at a funeral establishment or at any other
29 | location, regardless of whether the licensee is in control of
30 | such location. If a licensee uses books, catalogs, brochures,
31 |

1 or other printed display aids, the price of each casket shall
2 be clearly marked.

3 (g) Failing to disclose all fees and costs the
4 customer may incur to use the burial rights or merchandise
5 purchased.

6 (13) CONTRACT OBLIGATIONS.--

7 (a) Failing without reasonable justification to timely
8 honor contracts entered into by the licensee or under the
9 licensee's license for funeral or burial merchandise or
10 services.

11 (b) Failure to honor preneed contract cancellation
12 requests and make refunds as required by the chapter.

13 (14) OBLIGATIONS REGARDING COMPLAINTS AND CLAIMS BY
14 CUSTOMERS.--

15 (a) Failing to adopt and implement standards for the
16 proper investigation and resolution of claims and complaints
17 received by a licensee relating to the licensee's activities
18 regulated by this chapter.

19 (b) Committing or performing with such frequency as to
20 indicate a general business practice any of the following:

21 1. Failing to acknowledge and act promptly upon
22 communications from a licensee's customers and their
23 representatives with respect to claims or complaints relating
24 to the licensee's activities regulated by this chapter.

25 2. Denying claims or rejecting complaints received by
26 a licensee from a customer or customer's representative,
27 relating to the licensee's activities regulated by this
28 chapter, without first conducting reasonable investigation
29 based upon available information.

30 3. Attempting to settle a claim or complaint on the
31 basis of a material document which was altered without notice

1 to, or without the knowledge or consent of, the contract
2 purchaser or her or his representative or legal guardian.

3 4. Failing within a reasonable time to affirm or deny
4 coverage of specified services or merchandise under a contract
5 entered into by a licensee upon written request of the
6 contract purchaser or her or his representative or legal
7 guardian.

8 5. Failing to promptly provide, in relation to a
9 contract for funeral or burial merchandise or services entered
10 into by the licensee or under the licensee's license, a
11 reasonable explanation to the contract purchaser or her or his
12 representative or legal guardian of the licensee's basis for
13 denying or rejecting all or any part of a claim or complaint
14 submitted.

15 (c) Making a material misrepresentation to a contract
16 purchaser or her or his representative or legal guardian for
17 the purpose and with the intent of effecting settlement of a
18 claim or complaint or loss under a prepaid contract on less
19 favorable terms than those provided in, and contemplated by,
20 the prepaid contract.

21 (d) Failing to maintain a complete copy of every
22 complaint received by the licensee since the date of the last
23 examination of the licensee by the department. For purposes of
24 this subsection, the term "complaint" means any written
25 communication primarily expressing a grievance and which
26 communication is from:

27 1. A representative or family member of a deceased
28 person interred at the licensee's facilities or using the
29 licensee's services, or which deceased's remains were the
30 subject of any service provided by the licensee or licensee's
31 business; or

1 2. A person, or such person's family member or
2 representative, who inquired of the licensee or licensee's
3 business concerning the purchase of, or who purchased or
4 contracted to purchase, any funeral or burial merchandise or
5 services from the licensee or licensee's business.

6
7 For purposes of this subsection, the response of a customer
8 recorded by the customer on a customer satisfaction
9 questionnaire or survey form sent to the customer by the
10 licensee, and returned by the customer to the licensee, shall
11 not be deemed to be a complaint.

12 (15) MISCELLANEOUS FINANCIAL MATTERS.--

13 (a) Failing to timely pay any fee required by this
14 chapter.

15 (b) Failing to timely remit as required by this
16 chapter the required amounts to any trust fund required by
17 this chapter, provided a remittance deficiency shall not be a
18 disciplinary infraction if:

19 1. The remittance deficiency, neither by itself nor in
20 the aggregate with any prior remittance deficiencies, results
21 in or increases a trust fund deficit by 1 percent or more.

22 2. The failure to remit was not willful.

23 3. Any related trust fund deficit is corrected within
24 30 days of notice thereof to the licensee by the licensing
25 authority.

26 (c) Paying to or receiving from any organization,
27 agency, or person, either directly or indirectly, any
28 commission, bonus, kickback, or rebate in any form whatsoever
29 for any business regulated under this chapter, whether such
30 payments are made or received by the licensee, or her or his
31 agent, assistant, or employee; however, this provision shall

1 not prohibit the payment of commissions by a funeral director,
2 funeral establishment, cemetery, or monument establishment to
3 its preneed agents licensed pursuant to this chapter or to
4 licensees under this chapter.

5 Section 12. Subsection (1), paragraph (b) of
6 subsection (2), and paragraph (c) of subsection (4) of section
7 497.153, Florida Statutes, as created by chapter 2004-301,
8 Laws of Florida, are amended to read:

9 497.153 Disciplinary procedures and penalties.--

10 (1) JURISDICTION OF LICENSING AUTHORITY TO INVESTIGATE
11 AND PROSECUTE.--The expiration, nonrenewal, or surrender of
12 licensure under this chapter shall not eliminate jurisdiction
13 in the licensing authority to investigate and prosecute for
14 violations committed by a licensee while licensed under this
15 chapter. The prosecution of any matter may be initiated or
16 continued notwithstanding the withdrawal of any complaint.

17 (2) DETERMINATION OF PROBABLE CAUSE.--

18 (b) Prior to submitting a matter to the probable cause
19 panel, the licensee who is the subject of the matter shall be
20 provided by the department with a copy of any written
21 complaint received by the department in the matter and shall
22 be advised that the licensee ~~she or he~~ may, within 20 days
23 after receipt of a copy of such complaint from the department,
24 submit to the department a written response. Any response
25 timely received by the department shall be provided by the
26 department to the probable cause panel. Licensees may not
27 appear in person or through a representative at any probable
28 cause panel proceeding. This paragraph shall not apply to
29 emergency action.

30 (4) ACTION AFTER PROBABLE CAUSE FOUND.--

31

1 (c) The department may at any time present to the
2 board a proposed settlement by consent order or otherwise of
3 any matter as to which probable cause has been found. If the
4 board accepts the proposed settlement, it may execute and file
5 the consent order as its final order in the matter or may
6 otherwise issue its final order in the matter ~~shall issue its~~
7 ~~final order adopting the settlement~~. If the board does not
8 accept such settlement, the prosecution of the matter shall be
9 resumed. No settlement of any disciplinary matter as to which
10 probable cause has been found may be entered into by the board
11 prior to receipt of a recommended order of an administrative
12 law judge without the department's concurrence.

13 Section 13. Subsection (1) of section 497.158, Florida
14 Statutes, as renumbered and amended by section 28 of chapter
15 2004-301, Laws of Florida, is amended to read:

16 497.158 Court enforcement actions; powers; abatement
17 of nuisances.--

18 (1) In addition to or in lieu of other actions
19 authorized by this chapter, the department may petition the
20 courts of this state for injunctive or other relief against
21 any licensed or unlicensed person for the enforcement of this
22 chapter and orders issued under this chapter. The court shall
23 be authorized to impose a fine of up to \$5,000 per violation
24 on any licensee under this chapter and up to \$10,000 on any
25 person not licensed under this chapter, payable to the
26 department, upon any person determined by the court to have
27 violated this chapter, and may order payment to the department
28 of the department's attorney's fees and litigation costs, by
29 any person found to have violated this chapter.

30 Section 14. Subsections (1), (3), and (4) and
31 paragraph (a) of subsection (5) of section 497.159, Florida

1 Statutes, as created by chapter 2004-301, Laws of Florida, are
2 amended to read:

3 497.159 Crimes.--

4 (1) The theft ~~of an examination~~ in whole or in part or
5 the act of unauthorized reproducing, circulating, or copying
6 of any questions or answers on, from, or for any prelicensure
7 examination administered by the department or the board,
8 whether such examination is reproduced or copied in part or in
9 whole and by any means, constitutes a felony of the third
10 degree, punishable as provided in s. 775.082, s. 775.083, or
11 s. 775.084.

12 (3) Any individual who willfully obstructs the
13 department or its examiner in any examination or investigation
14 authorized by this chapter is guilty of a misdemeanor of the
15 second degree and is, in addition to any disciplinary action
16 under this chapter, punishable as provided in s. 775.082 or s.
17 775.083. The initiation of action in any court by or on behalf
18 of any licensee to terminate or limit any examination or
19 investigation under this chapter shall not constitute a
20 violation under this subsection.

21 (4) Any officer or director, or person occupying
22 similar status or performing similar functions, of a preneed
23 licensee who fails licensee under this chapter who knowingly
24 directs or causes the failure to make required deposits to any
25 trust fund required by this chapter; any director, officer,
26 agent, or employee of a preneed licensee who makes any
27 unlawful withdrawal of funds from any such account or who
28 knowingly discloses to the department or an employee thereof
29 any false report made pursuant to this chapter; or any person
30 who willfully violates any of the provisions of part II, part
31 IV or part V, or with knowledge that such required deposits

1 ~~are not being made as required by law fails to report such~~
2 ~~failure to the department, or who knowingly directs or causes~~
3 ~~the unlawful withdrawal of funds from any trust fund required~~
4 ~~by this chapter,~~ commits a felony of the third degree,
5 punishable as provided in s. 775.082, s. 775.083, or s.
6 775.084.

7 (5)(a) No cemetery company or other legal entity
8 conducting or maintaining any public or private cemetery may
9 deny burial space to any person because of race, creed,
10 marital status, sex, national origin, or color. A cemetery
11 company or other entity operating any cemetery may designate
12 parts of cemeteries or burial grounds for the specific use of
13 persons whose religious code requires isolation. Religious
14 institution cemeteries may limit burials to members of the
15 religious institution and their families.

16 Section 15. Paragraphs (g) and (h) of subsection (1)
17 and subsection (3) of section 497.161, Florida Statutes, as
18 created by chapter 2004-301, Laws of Florida, are amended to
19 read:

20 497.161 Other rulemaking provisions.--

21 (1) In addition to such other rules as are authorized
22 or required under this chapter, the following additional
23 rules, not inconsistent with this chapter, shall be authorized
24 by the licensing authority.

25 ~~(g) Rules establishing procedures by which the~~
26 ~~department may use the expert or technical advice of the board~~
27 ~~or members of the board for the purposes of any investigation,~~
28 ~~inspection, or financial examination, without thereby~~
29 ~~disqualifying the board member from voting on final action in~~
30 ~~the matter.~~

31

1 ~~(g)(h)~~ In connection with the statutory revisions by
2 the ~~2004~~ ~~2005~~ Regular Session of the Legislature merging
3 chapters 470 and 497 as those chapters appeared in the ~~2003~~
4 ~~2004~~ edition of the Florida Statutes and the elimination of
5 the former boards under those chapters and the movement of
6 regulation out of the Department of Business and Professional
7 Regulation, the licensing authority shall through July 1,
8 2006, be deemed to have extraordinary rulemaking authority to
9 adopt any and all rules jointly agreed by the board and the
10 department to be necessary for the protection of the public
11 concerning the regulation of the professions and occupations
12 regulated under this chapter, or for the relief of licensees
13 regulated under this chapter concerning any impacts which the
14 department and the board jointly agree were unintended or not
15 contemplated in the enactment of the ~~2004~~ ~~2005~~ legislative
16 changes. The authority under this paragraph and any rules
17 adopted under authority of this paragraph shall expire July 1,
18 2006.

19 (3) The department and the board shall each have
20 standing under chapter 120 for the purposes of challenging
21 rules or proposed rules under this chapter. This subsection
22 shall not be interpreted to deny standing to a licensee to
23 challenge any rule under this chapter if the licensee would
24 otherwise have standing.

25 Section 16. Subsections (1) and (3) of section
26 497.166, Florida Statutes, as created by chapter 2004-301,
27 Laws of Florida, are amended to read:

28 497.166 Preneed sales.--

29 (1) Regulation of preneed sales shall be as set forth
30 in part IV of this chapter. No person may act as an agent for
31 a preneed licensee ~~funeral establishment or direct disposal~~

1 ~~establishment~~ with respect to preneed contracts unless such
2 person is licensed as a preneed sales agent pursuant to part
3 IV of this chapter or is a licensed funeral director acting as
4 a preneed sales agent.

5 (3)(a) The funeral director in charge of a funeral
6 establishment shall be responsible for the control and
7 activities of the establishment's preneed sales agents.

8 (b) The direct disposer in charge or a funeral
9 director acting as a direct disposer in charge of a direct
10 disposal establishment shall be responsible for the control
11 and activities of the establishment's preneed sales agents.

12 (c) The responsibility imposed by this subsection on
13 the funeral director and direct disposer in charge is a duty
14 of reasonable supervision and not absolute liability. The
15 responsibility of the funeral director or direct disposer in
16 charge shall be in addition to the responsibility of the
17 preneed licensee for the conduct of the preneed sales agents
18 it employs.

19 Section 17. Subsection (2) of section 497.169, Florida
20 Statutes, as renumbered and amended by section 39 of chapter
21 2004-301, Laws of Florida, is amended to read:

22 497.169 Private actions; actions on behalf of
23 consumers; attorney's fee.--

24 (2) In any civil litigation resulting from a
25 transaction involving a violation of this chapter by a
26 cemetery company or burial rights broker licensed under part
27 II, a monument establishment licensed under part V, or a
28 preneed entity or preneed sales agent licensed under part IV,
29 the court may award to the prevailing party and against such
30 cemetery company, burial rights broker, monument
31 establishment, or preneed entity or sales agent, after

1 judgment in the trial court and exhaustion of any appeal,
2 reasonable attorney's fees and costs from the nonprevailing
3 party in an amount to be determined by the trial court. Any
4 award of attorney's fees or costs shall become a part of the
5 judgment and shall be subject to execution as the law allows.
6 This subsection shall not be applicable as against licenses
7 licensed under part III or part VI.

8 Section 18. Section 497.171, Florida Statutes, is
9 created to read:

10 497.171 Identification of human remains.--

11 (1) PRIOR TO FINAL DISPOSITION.--

12 (a) This subsection shall apply to licensees under
13 parts III and VI.

14 (b) The licensee in charge of the final disposition of
15 dead human remains shall, prior to final disposition of such
16 dead human remains, affix on the ankle or wrist of the
17 deceased, and on the casket or alternative container or
18 cremation container, proper identification of the dead human
19 remains. The identification or tag shall be encased in or
20 consist of durable and long-lasting material containing the
21 name, date of birth, and date of death of the deceased, if
22 available. The board may adopt rules specifying acceptable
23 materials for such identification tags, and acceptable
24 locations for the tags on the casket or alternative container
25 or cremation container, and acceptable methods of affixing the
26 tags.

27 (c) If the dead human remains are cremated, proper
28 identification shall be placed in the container or urn
29 containing the remains.

30 (d) Any licensee responsible for removal of dead human
31 remains to any establishment, facility, or location shall

1 ensure that the remains are identified by a tag or other means
2 of identification that is affixed to the ankle or wrist of the
3 deceased at the time the remains are removed from the place of
4 death or other location.

5 (2) INTERMENT IN UNLICENSED CEMETERIES.--The
6 identification of human remains interred in an unlicensed
7 cemetery shall be the responsibility of the licensed funeral
8 establishment in charge of the funeral arrangements for the
9 deceased person. The licensed funeral establishment in charge
10 of the funeral arrangements for the interment in an unlicensed
11 cemetery of human remains shall place on the outer burial
12 container, cremation interment container, or other container
13 or on the inside of a crypt or niche a tag or permanent
14 identifying mark containing the name of the decedent and the
15 date of death, if available. The materials and locations of
16 the tag or mark shall be more specifically described by rule
17 of the licensing authority.

18 (3) INTERMENT IN LICENSED CEMETERIES.--

19 (a) This subsection shall apply to cemetery licensees
20 under part II.

21 (b) As to interments in a licensed cemetery, each
22 licensed cemetery shall place on the outer burial container,
23 cremation interment container, or other container or on the
24 inside of a crypt or niche a tag or permanent identifying
25 marker containing the name of the decedent and the date of
26 death, if available. The materials and the location of the tag
27 or marker shall be more specifically described by rule of the
28 licensing authority.

29 (c) Each licensed cemetery may rely entirely on the
30 identity stated on the burial transit permit or on the
31 identification supplied by a person licensed under this

1 chapter to establish the identity of the dead human remains
2 delivered by such person for burial and shall not be liable
3 for any differences between the identity shown on the burial
4 transit permit or identification and the actual identity of
5 the dead human remains delivered by such person and buried in
6 the cemetery.

7 (4) DIRECT DISPOSAL ESTABLISHMENTS.--Direct disposal
8 establishments shall establish a system of identification of
9 human remains received which shall be designed to track the
10 identity of the remains from the time of receipt until
11 delivery of the remains to the authorized persons. This is in
12 addition to the requirements for identification of human
13 remains set forth in subsection (1). A copy of the
14 identification procedures shall be available, upon request, to
15 the department and legally authorized persons.

16 (5) RELIANCE ON LEGALLY AUTHORIZED PERSON.--Any
17 licensee charged with responsibility under this section may
18 rely on the representation of a legally authorized person to
19 establish the identity of dead human remains.

20 Section 19. Paragraph (b) of subsection (6) of section
21 497.260, Florida Statutes, as renumbered and amended by
22 section 42 of chapter 2004-301, Laws of Florida, is amended to
23 read:

24 497.260 Cemeteries; exemption; investigation and
25 mediation.--

26 (6)(b) No cemetery company or other legal entity
27 conducting or maintaining any public or private cemetery may
28 deny burial space to any person because of race, creed,
29 marital status, sex, national origin, or color. A cemetery
30 company or other entity operating any cemetery may designate
31 parts of cemeteries or burial grounds for the specific use of

1 persons whose religious code requires isolation. Religious
2 institution cemeteries may limit burials to members of the
3 religious institution and their families.

4 Section 20. Paragraphs (b), (m), (o), and (q) of
5 subsection (2) of section 497.263, Florida Statutes, as
6 renumbered and amended by section 45 of chapter 2004-301, Laws
7 of Florida, are amended to read:

8 497.263 Cemetery companies; license required;
9 licensure requirements and procedures.--

10 (2) APPLICATION PROCEDURES.--

11 (b) The applicant shall be a corporation, ~~or a~~
12 partnership, or a limited liability company ~~formed prior to~~
13 ~~January 1, 2005, which limited liability company already holds~~
14 ~~a license under this chapter.~~

15 (m) The applicant shall be required to make disclosure
16 of the applicant's criminal records, if any, as required by s.
17 497.142. ~~The application shall require the applicant to~~
18 ~~disclose whether the applicant or any principal of the~~
19 ~~applicant has ever been convicted or found guilty of, or~~
20 ~~entered a plea of no contest to, regardless of adjudication,~~
21 ~~any crime in any jurisdiction. The licensing authority may~~
22 ~~require by rule additional information to be provided~~
23 ~~concerning any affirmative answers.~~

24 (o) The applicant shall submit fingerprints in
25 accordance with s. 497.142. ~~The application shall require the~~
26 ~~applicant and applicant's principals to provide fingerprints~~
27 ~~in accordance with part I of this chapter.~~

28 (q) The application shall be signed in accordance with
29 s. 497.141(12) ~~by the president of the applicant.~~

30 Section 21. Paragraphs (h), (j), and (l) of subsection
31 (2) of section 497.264, Florida Statutes, as renumbered and

1 amended by chapter 2004-301, Laws of Florida, are amended to
2 read:

3 497.264 License not assignable or transferable.--

4 (2) Any person or entity that seeks to purchase or
5 otherwise acquire control of any cemetery licensed under this
6 chapter shall first apply to the licensing authority and
7 obtain approval of such purchase or change in control.

8 (h) The applicant shall be required to make disclosure
9 of applicant's criminal records, if any, as required by s.
10 497.142. ~~The application shall require the applicant to~~
11 ~~disclose whether the applicant or any principal of the~~
12 ~~applicant has ever been convicted or found guilty of, or~~
13 ~~entered a plea of no contest to, regardless of adjudication,~~
14 ~~any crime in any jurisdiction. The licensing authority may~~
15 ~~require by rule additional information to be provided~~
16 ~~concerning any affirmative answers.~~

17 (j) The applicant shall submit fingerprints in
18 accordance with s. 497.142. ~~The application shall require the~~
19 ~~applicant and the applicant's principals to provide~~
20 ~~fingerprints in accordance with part I of this chapter.~~

21 (l) The application shall be signed in accordance with
22 s. 497.141(12) ~~by the applicant if a natural person, otherwise~~
23 ~~by the president of the applicant.~~

24 Section 22. Section 497.281, Florida Statutes, as
25 renumbered and amended by section 62 of chapter 2004-301, Laws
26 of Florida, is amended to read:

27 497.281 Licensure of brokers of burial rights.--

28 (1) No person shall receive compensation to act as a
29 third party to the sale or transfer of three or more burial
30 rights in a 12-month period unless the person pays a license
31 fee as determined by licensing authority rule but not to

1 exceed \$250 and is licensed with the department as a burial
2 rights broker in accordance with this section.

3 (2)(a) The applicant shall be required to make
4 disclosure of the applicant's criminal records, if any, as
5 required by s. 497.142.

6 (b) The application shall require the applicant to
7 disclose whether the applicant or any principal of the
8 applicant has ever had a license or the authority to practice
9 a profession or occupation refused, suspended, fined, denied,
10 or otherwise acted against or disciplined by the licensing
11 authority of any jurisdiction. The licensing authority may
12 require by rule additional information to be provided
13 concerning any affirmative answers. A licensing authority's
14 acceptance of a relinquishment of licensure, stipulation,
15 consent order, or other settlement, offered in response to or
16 in anticipation of the filing of charges against the licensee,
17 shall be construed as action against the licensee. The
18 licensing authority may require by rule additional information
19 to be provided concerning any affirmative answers.

20 (c) The applicant shall submit fingerprints in
21 accordance with s. 497.142. The application shall be signed in
22 accordance with s. 497.141(12).

23 (d) The applicant shall demonstrate by clear and
24 convincing evidence that the applicant has the ability,
25 experience, and integrity to act as a burial broker and, if
26 the applicant is an entity, that the applicant's principals
27 are of good character.

28 (3) The licensing authority shall by rule establish
29 requirements for minimum records to be maintained by licensees
30 under this section, for the purpose of preventing confusion
31 and error by the licensee or by the cemeteries in which the

1 burial rights are located as to the status as sold or unsold,
2 and the identity of the owner, of the burial rights and
3 related interment spaces in the cemetery.

4 (4) The licensing authority may by rule require
5 inspections of the records of licensees under this section.

6 ~~(5)(2)~~ The department, by rule, shall provide for the
7 biennial renewal of licenses under this section and a renewal
8 fee as determined by licensing authority rule but not to
9 exceed \$250.

10 ~~(6)(3)~~ The licensure requirements of this section
11 shall not apply to persons otherwise licensed pursuant to this
12 chapter, but such persons, if they engage in activity as a
13 burial rights broker, shall be subject to rules relating to
14 required records and inspections.

15 ~~(4) The licensing authority may by rule specify~~
16 ~~records of brokerage transactions which shall be required to~~
17 ~~be maintained by burial rights brokers licensed under this~~
18 ~~subsection, and which shall be subject to inspection by the~~
19 ~~department.~~

20 Section 23. Paragraph (c) of subsection (1) of section
21 497.368, Florida Statutes, as renumbered and amended by
22 section 73 of chapter 2004-301, Laws of Florida, is amended to
23 read:

24 497.368 Embalmers; licensure as an embalmer by
25 examination; provisional license.--

26 (1) Any person desiring to be licensed as an embalmer
27 shall apply to the licensing authority to take the licensure
28 examination. The licensing authority shall examine each
29 applicant who has remitted an examination fee set by rule of
30 the licensing authority not to exceed \$200 plus the actual per
31

1 applicant cost to the licensing authority for portions of the
2 examination and who has:

3 (c) Made disclosure of applicant's criminal records,
4 if any, as required by s. 497.142. The applicant shall submit
5 fingerprints in accordance with s. 497.142. The applicant may
6 not be licensed under this section unless the licensing
7 authority determines the applicant is of good character and
8 has no demonstrated history of lack of trustworthiness or
9 integrity in business or professional matters. ~~Had no~~
10 ~~conviction or finding of guilt, regardless of adjudication,~~
11 ~~for a crime which directly relates to the ability to practice~~
12 ~~embalming or the practice of embalming.~~

13 Section 24. Paragraph (d) is added to subsection (1)
14 of section 497.369, Florida Statutes, as renumbered and
15 amended by section 74 of chapter 2004-301, Laws of Florida, to
16 read:

17 497.369 Embalmers; licensure as an embalmer by
18 endorsement; licensure of a temporary embalmer.--

19 (1) The licensing authority shall issue a license by
20 endorsement to practice embalming to an applicant who has
21 remitted an examination fee set by rule of the licensing
22 authority not to exceed \$200 and who the licensing authority
23 certifies:

24 (d) Has made disclosure of the applicant's criminal
25 records, if any, as required by s. 497.142. The applicant
26 shall submit fingerprints in accordance with s. 497.142. The
27 applicant may not be licensed under this section unless the
28 licensing authority determines the applicant is of good
29 character and has no demonstrated history of lack of
30 trustworthiness or integrity in business or professional
31 matters.

1 Section 25. Paragraph (c) of subsection (1) of section
2 497.373, Florida Statutes, as renumbered and amended by
3 section 78 of chapter 2004-301, Laws of Florida, is amended to
4 read:

5 497.373 Funeral directing; licensure as a funeral
6 director by examination; provisional license.--

7 (1) Any person desiring to be licensed as a funeral
8 director shall apply to the licensing authority to take the
9 licensure examination. The licensing authority shall examine
10 each applicant who has remitted an examination fee set by rule
11 of the licensing authority not to exceed \$200 plus the actual
12 per applicant cost to the licensing authority for portions of
13 the examination and who the licensing authority certifies has:

14 (c) Made disclosure of the applicant's criminal
15 records, if any, as required by s. 497.142. The applicant
16 shall submit fingerprints in accordance with s. 497.142. The
17 applicant may not be licensed under this section unless the
18 licensing authority determines the applicant is of good
19 character and has no demonstrated history of lack of
20 trustworthiness or integrity in business or professional
21 matters. ~~Had no conviction or finding of guilt, regardless of~~
22 ~~adjudication, for a crime which directly relates to the~~
23 ~~ability to practice funeral directing or the practice of~~
24 ~~funeral directing.~~

25 Section 26. Paragraph (d) is added to subsection (1)
26 of section 497.374, Florida Statutes, as renumbered and
27 amended by section 79 of chapter 2004-301, Laws of Florida, to
28 read:

29 497.374 Funeral directing; licensure as a funeral
30 director by endorsement; licensure of a temporary funeral
31 director.--

1 (1) The licensing authority shall issue a license by
2 endorsement to practice funeral directing to an applicant who
3 has remitted a fee set by rule of the licensing authority not
4 to exceed \$200 and who:

5 (d) Has made disclosure of the applicant's criminal
6 records, if any, as required by s. 497.142. The applicant
7 shall submit fingerprints in accordance with s. 497.142. The
8 applicant may not be licensed under this section unless the
9 licensing authority determines the applicant is of good
10 character and has no demonstrated history of lack of
11 trustworthiness or integrity in business or professional
12 matters.

13 Section 27. Subsection (1) of section 497.376, Florida
14 Statutes, as renumbered and amended by section 81 of chapter
15 2004-301, Laws of Florida, is amended to read:

16 497.376 License as funeral director and embalmer
17 permitted; display of license.--

18 (1) Nothing in this chapter may be construed to
19 prohibit a person from holding a license as an embalmer and a
20 license as a funeral director at the same time. There may be
21 issued and renewed by the licensing authority a combination
22 license as both funeral director and embalmer to persons
23 meeting the separate requirements for both licenses as set
24 forth in this chapter. The licensing authority may adopt rules
25 providing procedures for applying for and renewing such
26 combination license. The licensing authority may by rule
27 establish application, renewal, and other fees for such
28 combination license, which fees shall not exceed the sum of
29 the maximum fees for the separate funeral director and
30 embalmer license categories as provided in this chapter.
31 Persons holding a combination license as a funeral director

1 and embalmer shall be subject to regulation under this chapter
2 both as a funeral director and an embalmer.

3 Section 28. Subsections (1), (4), and (12) of section
4 497.380, Florida Statutes, as renumbered and amended by
5 section 85 of chapter 2004-301, Laws of Florida, is amended to
6 read:

7 497.380 Funeral establishment; licensure.--

8 (1) A funeral establishment shall be a place at a
9 specific street address or location consisting of at least
10 1,250 contiguous interior square feet and must maintain or
11 make arrangements for ~~either~~ capacity for the refrigeration
12 and storage of dead human bodies handled and stored by the
13 establishment and a preparation room equipped with necessary
14 ventilation and drainage and containing necessary instruments
15 for embalming dead human bodies or must make arrangements for
16 a preparation room as established by rule.

17 (4) Application for a funeral establishment license
18 shall be made on forms and pursuant to procedures specified by
19 rule, shall be accompanied by a nonrefundable fee not to
20 exceed \$300 as set by licensing authority rule, and shall
21 include the name of the licensed funeral director who is in
22 charge of that establishment. The applicant shall be required
23 to make disclosure of the applicant's criminal records, if
24 any, as required by s. 497.142. The applicant shall submit
25 fingerprints in accordance with s. 497.142. A duly completed
26 application accompanied by the required fees shall be approved
27 and the license issued if the proposed funeral establishment
28 has passed an inspection pursuant to rule of the licensing
29 authority, the licensing authority determines the applicant is
30 of good character and has no demonstrated history of lack of
31 trustworthiness or integrity in business or professional

1 matters, and the applicant otherwise is in compliance with all
2 applicable requirements of this chapter.

3 (12)(a) A change in ownership of a funeral
4 establishment shall be promptly reported pursuant to
5 procedures established by rule and shall require the
6 relicensure of the funeral establishment, including
7 reinspection and payment of applicable fees.

8 (b) A change in location of a funeral establishment
9 shall be promptly reported to the licensing authority pursuant
10 to procedures established by rule. Operations by the licensee
11 at a new location may not commence until an inspection by the
12 licensing authority of the facilities, pursuant to rules of
13 the licensing authority, has been conducted and passed at the
14 new location.

15 Section 29. Paragraphs (a) and (g) of subsection (1)
16 and paragraphs (a), (f), and (g) of subsection (2) of section
17 497.385, Florida Statutes, as renumbered and amended by
18 section 90 of chapter 2004-301, Laws of Florida, are amended,
19 and paragraph (i) is added to subsection (2) of that section,
20 to read:

21 497.385 Removal services; refrigeration facilities;
22 centralized embalming facilities.--In order to ensure that the
23 removal, refrigeration, and embalming of all dead human bodies
24 is conducted in a manner that properly protects the public's
25 health and safety, the licensing authority shall adopt rules
26 to provide for the licensure of removal services,
27 refrigeration facilities, and centralized embalming facilities
28 operated independently of funeral establishments, direct
29 disposal establishments, and cinerator facilities.

30 (1) REMOVAL SERVICES AND REFRIGERATION SERVICES.--

31

1 (a) Application for licensure of a removal service or
2 a refrigeration service shall be made using forms and
3 procedures as specified by rule, shall be accompanied by a
4 nonrefundable fee not to exceed \$300 as set by licensing
5 authority rule, and shall include the name of the business
6 owner, manager in charge, business address, and copies of
7 occupational and other local permits. The applicant shall be
8 required to make disclosure of the applicant's criminal
9 records, if any, as required by s. 497.142. The applicant
10 shall submit fingerprints in accordance with s. 497.142. A
11 duly completed application accompanied by the required fees
12 shall be approved and the license issued if the applicant has
13 passed an inspection pursuant to rule of the licensing
14 authority, the licensing authority determines the applicant is
15 of good character and has no demonstrated history of lack of
16 trustworthiness or integrity in business or professional
17 matters, and the applicant otherwise is in compliance with all
18 applicable requirements of this chapter.

19 (g)1. A change in ownership shall be promptly reported
20 using forms and procedures specified by rule and may require
21 the relicensure of the licensee, including reinspection and
22 payment of applicable fees, as required by rule.

23 2. A change in location shall be promptly reported to
24 the licensing authority pursuant to procedures established by
25 rule. Operations by the licensee at a new location may not
26 commence until an inspection by the licensing authority of the
27 facilities, pursuant to rules of the licensing authority, has
28 been conducted and passed at the new location.

29 (2) CENTRALIZED EMBALMING FACILITIES.--In order to
30 ensure that all funeral establishments have access to
31 embalming facilities that comply with all applicable health

1 and safety requirements, the licensing authority shall adopt
2 rules to provide for the licensure and operation of
3 centralized embalming facilities and shall require, at a
4 minimum, the following:

5 (a) All centralized embalming facilities shall contain
6 all of the equipment and meet all of the requirements that a
7 preparation room located in a funeral establishment is
8 required to meet, but such facilities shall not be required to
9 comply with any of the other requirements for funeral
10 establishments, as set forth in s. 497.380. The licensing
11 authority may adopt rules establishing the equipment and other
12 requirements for operation of a centralized embalming facility
13 consistent with this paragraph.

14 (f) Application for licensure of a centralized
15 embalming facility shall be made utilizing forms and
16 procedures prescribed by rule and shall be accompanied by a
17 nonrefundable fee not to exceed \$300 as set by licensing
18 authority rule, and licensure shall be renewed biennially
19 pursuant to procedures and upon payment of a nonrefundable fee
20 not to exceed \$300 as set by licensing authority rule. The
21 licensing authority may also establish by rule a late fee not
22 to exceed \$50 per day. Any licensure not renewed within 30
23 days after the renewal date shall expire without further
24 action by the department. The applicant shall be required to
25 make disclosure of the applicant's criminal records, if any,
26 as required by s. 497.142. The applicant shall submit
27 fingerprints in accordance with s. 497.142. A duly completed
28 application accompanied by the required fees shall be approved
29 and the license issued if the applicant has passed an
30 inspection pursuant to rule of the licensing authority, the
31 licensing authority determines the applicant is of good

1 character and has no demonstrated history of lack of
2 trustworthiness or integrity in business or professional
3 matters, and the applicant otherwise is in compliance with all
4 applicable requirements of this chapter.

5 (g) The licensing authority shall set by rule an
6 annual inspection fee not to exceed \$300, payable upon
7 application for licensure and upon renewal of such licensure.
8 Centralized embalming facilities shall be subject to
9 inspection before issuance of license and annually thereafter
10 and also upon change of location and during investigation of
11 any complaint. A centralized embalming facility shall notify
12 the licensing authority of any change in location. A change in
13 ownership shall be promptly reported to the licensing
14 authority and may require the relicensure of the licensee,
15 including reinspection and payment of applicable fees, as
16 required by rule. The licensing authority shall adopt rules
17 establishing inspection criteria and otherwise establishing
18 forms and procedures for the implementation of this paragraph.

19 (i)1. A change in ownership shall be promptly reported
20 using forms and procedures specified by rule and may require
21 the relicensure of the licensee, including reinspection and
22 payment of applicable fees, as required by rule.

23 2. A change in location shall be promptly reported to
24 the licensing authority pursuant to procedures established by
25 rule. Operations by the licensee at a new location may not
26 commence until an inspection by the licensing authority of the
27 facilities, pursuant to rules of the licensing authority, has
28 been conducted and passed at the new location.

29 Section 30. Section 497.453, Florida Statutes, as
30 renumbered and amended by section 102 of chapter 2004-301,
31 Laws of Florida, is amended to read:

1 497.453 Application for preneed license, procedures
2 and criteria; renewal; reports.--

3 (1) PRENEED LICENSE APPLICATION PROCEDURES.--

4 (a) A person seeking a license to enter into preneed
5 contracts shall apply for such licensure using forms
6 prescribed by rule.

7 (b) The application shall require the name, business
8 address, residence address, date and place of birth or
9 incorporation, and business phone number of the applicant and
10 all principals of the applicant. The application shall require
11 the applicant's social security number, or, if the applicant
12 is an entity, its federal tax identification number.

13 (c) The application may require information as to the
14 applicant's financial resources.

15 (d) The application may require information as to the
16 educational and employment history of an individual applicant;
17 and as to applicants that are not natural persons, the
18 business and employment history of the applicant and
19 principals of the applicant.

20 (e) The applicant shall be required to make disclosure
21 of the applicant's criminal records, if any, as required by s.
22 497.142. ~~The application shall require the applicant to~~
23 ~~disclose whether the applicant or any of the applicant's~~
24 ~~principals have ever been convicted or found guilty of, or~~
25 ~~entered a plea of no contest to, regardless of adjudication,~~
26 ~~any crime in any jurisdiction.~~

27 (f) The application shall require the applicant to
28 disclose whether the applicant or any of the applicant's
29 principals have ever had a license or the authority to
30 practice a profession or occupation refused, suspended, fined,
31 denied, or otherwise acted against or disciplined by the

1 | licensing authority of any jurisdiction. A licensing
2 | authority's acceptance of a relinquishment of licensure,
3 | stipulation, consent order, or other settlement, offered in
4 | response to or in anticipation of the filing of charges
5 | against the license, shall be construed as action against the
6 | license.

7 | (g) The applicant shall submit fingerprints in
8 | accordance with s. 497.142. ~~The application shall require the~~
9 | ~~applicant and its principals to provide fingerprints in~~
10 | ~~accordance with part I of this chapter.~~

11 | (h) The application shall state the name and license
12 | number of the funeral establishment, cemetery company, direct
13 | disposal establishment, or monument establishment, under whose
14 | license the preneed application is made.

15 | (i) The application shall state the types of preneed
16 | contracts proposed to be written.

17 | (j) The application shall disclose the existence of
18 | all preneed contracts for service or merchandise entered into
19 | by the applicant, or by any other entity under common control
20 | with the applicant, without or prior to authorization under
21 | this section or predecessors to this section. As to each such
22 | contract, the applicant shall disclose the name and address of
23 | the contract purchaser, the status of the contract, and what
24 | steps or measures the applicant has taken to ensure
25 | performance of unfulfilled contracts, setting forth the
26 | treatment and status of funds received from the customer in
27 | regard to the contract, and stating the name and address of
28 | any institution where such funds are deposited and the number
29 | used by the institution to identify the account. With respect
30 | to contracts entered into before January 1, 1983, an
31 | application to issue or renew a preneed license may not be

1 denied solely on the basis of such disclosure. The purchaser
2 of any such contract may not be required to liquidate the
3 account if such account was established before July 1, 1965.
4 Information disclosed may be used by the licensing authority
5 to notify the contract purchaser and the institution in which
6 such funds are deposited should the holder of a preneed
7 license be unable to fulfill the requirements of the contract.

8 (k) The application shall require the applicant to
9 demonstrate that the applicant complies and will comply with
10 all requirements for preneed contract licensure under this
11 chapter.

12 (l) The application may require any other information
13 considered necessary by the department or board to meet its
14 responsibilities under this chapter.

15 (m) The application shall be sworn to and signed in
16 accordance with s. 497.141(12) ~~by the applicant if a natural~~
17 ~~person, or by the president of an applicant that is not a~~
18 ~~natural person.~~

19 (n) The application shall be accompanied by a
20 nonrefundable fee as determined by licensing authority rule
21 but not to exceed \$500.

22 (2) ACTION CONCERNING APPLICATIONS.--A duly completed
23 application for licensure under this section, accompanied by
24 the required fees, shall be approved and a license issued, if
25 the licensing authority determines that the following
26 conditions are met:

27 (a) The application is made by a funeral
28 establishment, cemetery company, direct disposal
29 establishment, or monument establishment, or on behalf of one
30 of the preceding licensees by its agent in the case of a
31

1 corporate entity, licensed and in good standing under this
2 chapter.

3 (b) The applicant meets net worth requirements
4 specified by rule of the licensing authority.

5 1. The net worth required by rule to obtain or renew a
6 preneed license and write and carry up to \$100,000 in total
7 retail value of outstanding preneed contracts shall not exceed
8 \$20,000. The board may specify higher net worth requirements
9 by increments, for total retail value of outstanding preneed
10 contracts carried in excess of \$100,000, as the board
11 determines necessary for the protection of the public.

12 2. An applicant to obtain or renew a preneed licensee
13 that cannot demonstrate the required initial minimum net worth
14 may voluntarily submit to the licensing authority and request
15 acceptance of alternative evidence of financial stability and
16 resources or agree to additional oversight in lieu of the
17 required net worth. Such additional evidence or oversight may
18 include, as appropriate, one or more of the following:

19 a. An agreement to submit monthly financial statements
20 of the entity.

21 b. An agreement to submit quarterly financial
22 statements of the entity.

23 c. An appraisal of the entity's property or broker's
24 opinion of the entity's assets.

25 d. A credit report of the entity or its principals.

26 e. A subordination-of-debt agreement from the entity's
27 principals.

28 f. An indemnification or subrogation agreement binding
29 the entity and its principals.

30 g. A guarantee agreement for the entity from its
31 principals.

1 h. A written explanation of past financial activity.
2 i. Submission of a 12-month projected business plan
3 that includes:
4 (I) A statement of cash flows.
5 (II) Pro forma income statements, with sources of
6 revenues identified.
7 (III) Marketing initiatives.
8 j. Submission of previous department examination
9 reports.
10 k. An agreement of 100 percent voluntary trust by the
11 entity.
12 3. The licensing authority may accept such alternative
13 evidence or arrangements in lieu of the required net worth
14 only if the licensing authority determines such alternative
15 evidence or arrangements are an adequate substitute for
16 required net worth and that acceptance would not substantially
17 increase the risk to existing or future customers of
18 nonperformance by the applicant or licensee on its retail
19 sales agreements.
20 (c) The applicant has and will have the ability to
21 discharge her or his liabilities as they become due in the
22 normal course of business, and has and will have sufficient
23 funds available during the calendar year to perform her or his
24 obligations under her or his contracts.
25 (d) If the applicant or any entity under common
26 control with the applicant has entered into preneed contracts
27 prior to being authorized to do so under the laws of this
28 state:
29 1. The licensing authority determines that adequate
30 provision has been made to ensure the performance of such
31 contracts.

1 2. The licensing authority determines that the
2 improper sale of such preneed contracts prior to authorization
3 under this chapter does not indicate, under the facts of the
4 particular application in issue, that the applicant has a
5 disregard of the laws of this state such as would expose the
6 public to unreasonable risk if the applicant were issued a
7 preneed license.

8 3. Nothing in this section shall imply any
9 authorization to enter into preneed contracts without
10 authorization under this chapter.

11 (e) Neither the applicant nor the applicant's
12 principals have a demonstrated history of conducting their
13 business affairs to the detriment of the public.

14 (f) The applicant and the applicant's principals are
15 of good character and have no demonstrated history of lack of
16 trustworthiness or integrity in business or professional
17 matters.

18 (g) The applicant does and will comply with all other
19 requirements of this chapter relating to preneed licensure.

20 (3) ISSUANCE OF LICENSES ON PROBATIONARY STATUS.--It
21 is the policy of this state to encourage competition for the
22 public benefit in the preneed contract business by, among
23 other means, the entry of new licensees into that business. To
24 facilitate issuance of licenses concerning applications judged
25 by the licensing authority to be borderline as to
26 qualification for licensure, the licensing authority may issue
27 a new license under this section on a probationary basis,
28 subject to conditions specified by the licensing authority on
29 a case-by-case basis, which conditions may impose special
30 monitoring, reporting, and restrictions on operations for up
31 to the first 12 months of licensure, to ensure the licensee's

1 | responsibleness, competency, financial stability, and
2 | compliance with this chapter. Provided, no such probationary
3 | license shall be issued unless the licensing authority
4 | determines that issuance would not pose an unreasonable risk
5 | to the public, and the licensing authority must within 12
6 | months after issuance of the license either remove the
7 | probationary status or determine that the licensee is not
8 | qualified for licensure under this chapter and institute
9 | proceedings for revocation of licensure.

10 | (4) CHANGE IN CONTROL SUBSEQUENT TO LICENSURE.--

11 | (a) Each licensee under this section must provide
12 | notice as required by rule prior to any change in control of
13 | the licensee. Any such change is subject to disapproval or to
14 | reasonable conditions imposed by the licensing authority, for
15 | the protection of the public to ensure compliance with this
16 | chapter, based upon criteria established by rule, which
17 | criteria shall promote the purposes of this part in protecting
18 | the consumer.

19 | (b) The licensing authority may authorize the transfer
20 | of a preneed license and establish by rule a fee for the
21 | transfer in an amount not to exceed \$500. Upon receipt of an
22 | application for transfer, the executive director may grant a
23 | temporary preneed license to the proposed transferee, based
24 | upon criteria established by the licensing authority by rule,
25 | which criteria shall promote the purposes of this chapter in
26 | protecting the consumer. Such a temporary preneed license
27 | shall expire at the conclusion of the next regular meeting of
28 | the board unless renewed by the board. The licensing authority
29 | may by rule establish forms and procedures for the
30 | implementation of this paragraph.

31 | (5) RENEWAL OF LICENSES.--

1 (a) A preneed license shall expire annually on June 1,
2 unless renewed, or at such other time or times as may be
3 provided by rule. The application for renewal of the license
4 shall be on forms prescribed by rule and shall be accompanied
5 by a renewal fee as specified in paragraph (c).

6 (b) Within 3 months after the end of its fiscal
7 period, or within an extension of time therefor, as the
8 department for good cause may grant, the licensee shall file
9 with the department a full and true statement of her or his
10 financial condition, transactions, and affairs, prepared on a
11 basis as adopted by rule, as of the end of the preceding
12 fiscal period or at such other time or times as may be
13 required by rule, together with such other information and
14 data which may be required by rule. To facilitate uniformity
15 in financial statements and to facilitate department analysis,
16 there may be adopted by rule a form for financial statements.
17 The rules regarding net worth, authorized by paragraph (2)(b),
18 shall be applicable to the renewal of preneed licenses.

19 (c)1. Each annual application for renewal of a preneed
20 license that is not held by a monument establishment shall be
21 accompanied by the appropriate fee as follows:

22 a.1- For a preneed licensee with no preneed contract
23 sales during the immediately preceding year.....\$300.

24 b.2- For a preneed licensee with at least 1 but fewer
25 than 50 preneed contract sales during the immediately
26 preceding year.....\$400.

27 c.3- For a preneed licensee with at least 50 but fewer
28 than 250 preneed contract sales during the immediately
29 preceding year.....\$500.

30
31

- 1 ~~d.4.~~ For a preneed licensee with at least 250 but
2 fewer than 1,000 preneed contract sales during the immediately
3 preceding year.....\$850.
- 4 ~~e.5.~~ For a preneed licensee with at least 1,000 but
5 fewer than 2,500 preneed contract sales during the immediately
6 preceding year.....\$1,500.
- 7 ~~f.6.~~ For a preneed licensee with at least 2,500 but
8 fewer than 5,000 preneed contract sales during the immediately
9 preceding year.....\$2,500.
- 10 ~~g.7.~~ For a preneed licensee with at least 5,000 but
11 fewer than 15,000 preneed contract sales during the
12 immediately preceding year.....\$6,000.
- 13 ~~h.8.~~ For a preneed licensee with at least 15,000 but
14 fewer than 30,000 preneed contract sales during the
15 immediately preceding year.....\$12,500.
- 16 ~~i.9.~~ For a preneed licensee with 30,000 preneed
17 contract sales or more during the immediately preceding year
18\$18,500.
- 19 2. Each annual application for renewal of a preneed
20 license that is held by a monument establishment shall be
21 accompanied by the appropriate fee determined by its total
22 gross aggregate at-need and preneed retail sales for the
23 12-month period ending 2 full calendar months prior to the
24 month in which the renewal is required, as follows:
- 25 a. Total sales of \$1 to \$50,000, renewal fee \$1,000.
26 b. Total sales of \$50,001 to \$250,000, renewal fee
27 \$1,500.
- 28 c. Total sales of \$250,001 to \$500,000, renewal fee
29 \$2,000.
- 30 d. Total sales over \$500,000, renewal fee \$2,500.
31

1 (d) An application for renewal shall disclose the
2 existence of all preneed contracts for service or merchandise
3 funded by any method other than a method permitted by this
4 chapter, which contracts are known to the applicant and were
5 entered into by the applicant, or any other entity under
6 common control with the applicant, during the annual license
7 period then ending. Such disclosure shall include the name and
8 address of the contract purchaser, the name and address of the
9 institution where such funds are deposited, and the number
10 used by the institution to identify the account.

11 (e) In addition to any other penalty that may be
12 provided for under this chapter, there may be levied a late
13 fee as determined by licensing authority rule but not to
14 exceed \$50 a day for each day the preneed licensee fails to
15 file its annual statement, and there may be levied a late fee
16 as determined by licensing authority rule but not to exceed
17 \$50 a day for each day the preneed licensee fails to file the
18 statement of activities of the trust. Upon notice to the
19 preneed licensee by the department that the preneed licensee
20 has failed to file the annual statement or the statement of
21 activities of the trust, the preneed licensee's authority to
22 sell preneed contracts shall cease while such default
23 continues.

24 (6) QUARTERLY PAYMENTS.--In addition to other amounts
25 required to be paid by this section, each preneed licensee
26 shall pay to the Regulatory Trust Fund an amount established
27 by rule not to exceed \$10 for each preneed contract entered
28 into. This amount must be paid within 60 days after the end of
29 each quarter. These funds must be used to defray the cost of
30 administering the provisions of this part.

31 (7) BRANCH OPERATIONS AND LICENSURE.--

1 (a) Any person or entity that is part of a common
2 business enterprise that has a preneed license issued pursuant
3 to this section and desires to operate under a name other than
4 that of the common business enterprise, may submit an
5 application on a form adopted by rule to become a branch
6 licensee. The application shall be accompanied by an
7 application fee as determined by licensing authority rule but
8 not to exceed \$300.

9 (b) Upon a determination that such branch applicant
10 qualifies to sell preneed contracts under this part except for
11 the requirements of paragraph (2)(c), and if the sponsoring
12 preneed licensee under whose preneed license the branch
13 applicant seeks branch status meets the requirements of such
14 paragraph and is in compliance with all requirements of this
15 part regarding its preneed license and operations thereunder,
16 a branch license shall be issued.

17 (c) Branch licenses shall be renewed annually by
18 payment of a renewal fee set by licensing authority rule and
19 not to exceed \$300. Branch licenses may be renewed only so
20 long as the preneed license of the sponsoring preneed licensee
21 remains in good standing.

22 (d) Violations of this part by the branch shall be
23 deemed to be violations of this part by its sponsoring preneed
24 licensee, unless the licensing authority determines that
25 extenuating circumstances indicate that it would be unjust to
26 attribute the branch's misconduct to the sponsoring preneed
27 licensee. Preneed sales of the branch shall be deemed to be
28 sales of the sponsoring licensee for purposes of renewal fees
29 and trust requirements under this chapter.

30 (e) The sponsoring preneed licensee shall be
31 responsible for performance of preneed contracts entered into

1 | by its branch if the branch does not timely fulfill any such
2 | contract.

3 | (8) ANNUAL TRUST REPORTS.--On or before April 1 of
4 | each year, the preneed licensee shall file in the form
5 | prescribed by rule a full and true statement as to the
6 | activities of any trust established by it pursuant to this
7 | part for the preceding calendar year.

8 | (9) DEPOSIT OF FUNDS.--All sums collected under this
9 | section shall be deposited to the credit of the Regulatory
10 | Trust Fund.

11 | Section 31. Subsection (6) of section 497.456, Florida
12 | Statutes, as renumbered and amended by section 105 of chapter
13 | 2004-301, Laws of Florida, is amended to read:

14 | 497.456 Preneed Funeral Contract Consumer Protection
15 | Trust Fund.--

16 | (6) Upon the commencement of a delinquency proceeding
17 | pursuant to this chapter against a preneed licensee, the
18 | licensing authority may use up to 50 percent of the balance of
19 | the trust fund not already committed to a prior delinquency
20 | proceeding ~~solely~~ for the purpose of establishing a
21 | receivership and providing restitution to preneed contract
22 | purchasers and their estates due to a preneed licensee's
23 | failure to provide the benefits of a preneed contract or
24 | failure to refund the appropriate principal amount by reason
25 | of cancellation thereof. The balance of the trust fund shall
26 | be determined as of the date of the delinquency proceeding.

27 | Section 32. Paragraph (h) of subsection (1) and
28 | subsection (4) of section 497.458, Florida Statutes, as
29 | renumbered and amended by section 107 of chapter 2004-301,
30 | Laws of Florida, are amended to read:

31 |

1 497.458 Disposition of proceeds received on
2 contracts.--
3 (1)
4 (h) In no event may trust funds be loaned, directly or
5 indirectly, to any of the following persons: the preneed
6 licensee; any entity under any degree of common control with
7 the preneed licensee; any employee, director, full or partial
8 owner, or principal of the preneed licensee; or any person
9 related by blood or marriage to any of those persons. In no
10 event may trust funds, directly or indirectly, be invested in
11 or with, or loaned to, any business or business venture in
12 which any of the following persons have an interest: the
13 preneed licensee, any entity under any degree of common
14 control with the preneed licensee, any employee, director,
15 full or partial owner, or principal of the preneed licensee,
16 or any person related by blood or marriage to any of those
17 persons. In no event may said funds be loaned to a preneed
18 licensee, an affiliate of a preneed licensee, or any person
19 directly or indirectly engaged in the burial, funeral home, or
20 cemetery business.
21 ~~(4)(a) Trust funds shall not be invested in or loaned~~
22 ~~to or for the benefit of any business venture in which the~~
23 ~~preneed licensee, its principals, or persons related by blood~~
24 ~~or marriage to the licensee or its principals, have a direct~~
25 ~~or indirect interest, without the prior approval of the~~
26 ~~licensing authority.~~
27 ~~(b) Trust funds shall not be loaned to or for the~~
28 ~~benefit of the preneed licensee, its principals, or persons~~
29 ~~related by blood or marriage to the licensee or its~~
30 ~~principals, without the prior approval of the licensing~~
31 ~~authority.~~

1 ~~(c) No approval of such loans or investments shall be~~
2 ~~given unless it be shown by clear and convincing evidence that~~
3 ~~such loan or investment would be in the interest of the~~
4 ~~preneed contract holders whose contracts are secured by the~~
5 ~~trust funds.~~

6 ~~(d)~~ The licensing authority may adopt rules exempting
7 from the prohibition of paragraph (1)(h) ~~this subsection~~,
8 pursuant to criteria established in such rule, the investment
9 of trust funds in investments, such as widely and publicly
10 traded stocks and bonds, notwithstanding that the licensee,
11 its principals, or persons related by blood or marriage to the
12 licensee or its principals have an interest by investment in
13 the same entity, where neither the licensee, its principals,
14 or persons related by blood or marriage to the licensee or its
15 principals have the ability to control the entity invested in,
16 and it would be in the interest of the preneed contract
17 holders whose contracts are secured by the trust funds to
18 allow the investment.

19 Section 33. Paragraphs (d) and (h) of subsection (2)
20 and subsection (5) of section 497.466, Florida Statutes, as
21 renumbered and amended by section 115 of chapter 2004-301,
22 Laws of Florida, are amended to read:

23 497.466 Preneed sales agents, license required;
24 application procedures and criteria; responsibility of preneed
25 licensee.--

26 (2) APPLICATION PROCEDURES.--

27 (d) The applicant shall be required to make disclosure
28 of the applicant's criminal records, if any, as required by s.
29 497.142. ~~The application shall require the preneed sales agent~~
30 ~~applicant to disclose whether the preneed sales agent~~
31 ~~applicant has ever been convicted or found guilty of, or~~

1 ~~entered a plea of no contest to, regardless of adjudication,~~
2 ~~any crime in any jurisdiction.~~

3 (h) The applicant shall submit fingerprints in
4 accordance with s. 497.142. ~~The applicant shall be required to~~
5 ~~submit her or his fingerprints in accordance with part I of~~
6 ~~this chapter.~~

7 (5) SIMPLIFIED PROCEDURES FOR SUBSEQUENT CHANGE OF
8 SPONSORING LICENSEE.--The board may by rule establish
9 simplified requirements and procedures under which any preneed
10 sales agent, who within the 12 months preceding application
11 under this subsection held in good standing a preneed sales
12 agent license under this section, may obtain a preneed sales
13 agent's license under this section to represent a different
14 sponsoring preneed licensee. If the applicant has previously
15 submitted fingerprints to the department pursuant to s.
16 497.142, the simplified requirements shall dispense with the
17 requirement for another submission of fingerprints by the
18 applicant. The licensing authority may by rule prescribe forms
19 to be used by applicants under this subsection, which forms
20 may dispense with the requirement for any information not
21 deemed by the licensing authority to be necessary to tracking
22 the identity of the preneed licensee responsible for the
23 activities of the preneed sales agent. No preneed sales agent
24 licensee whose sales agent license issued by the board was
25 revoked or suspended or otherwise terminated while in other
26 than good standing, shall be eligible to use the simplified
27 requirements and procedures. The issuance of a preneed sales
28 agent license under this subsection shall not operate as a bar
29 to any subsequent disciplinary action relating to grounds
30 arising prior to obtaining the license under this subsection.
31 There shall be a fee payable to the department under such

1 | simplified procedures, which fee shall be the same as the fee
2 | paid upon initial application for a preneed sales agent
3 | license, except that no fingerprint fee shall be required if
4 | such fingerprint fee is required for initial applications.

5 | Section 34. Section 497.468, Florida Statutes, is
6 | created to read:

7 | 497.468 Disclosure of information to the public.--A
8 | preneed licensee offering to provide burial rights,
9 | merchandise, or services to the public shall:

10 | (1) Provide by telephone, upon request, accurate
11 | information regarding the retail prices of burial merchandise
12 | and services offered for sale by the licensee.

13 | (2) Fully disclose all regularly offered services and
14 | merchandise prior to the selection of burial services or
15 | merchandise. The full disclosure required shall identify the
16 | prices of all burial rights, services, and merchandise
17 | provided by the licensee.

18 | (3) Not make any false or misleading statements of the
19 | legal requirement as to the necessity of a casket or outer
20 | burial container.

21 | (4) Provide a good faith estimate of all fees and
22 | costs the customer will incur to use any burial rights,
23 | merchandise, or services purchased.

24 | (5) Provide to the customer, upon the purchase of any
25 | burial right, merchandise, or service, a written contract, the
26 | form of which has been approved by the licensing authority
27 | pursuant to procedures specified by rule.

28 | (a) The written contract shall be completed as to all
29 | essential provisions prior to the signing of the contract by
30 | the customer.

31 |

1 (b) The written contract shall provide an itemization
2 of the amounts charged for all services, merchandise, and
3 fees, which itemization shall be clearly and conspicuously
4 segregated from everything else on the written contract.

5 (c) A description of the merchandise covered by the
6 contract to include, when applicable, model, manufacturer, and
7 other relevant specifications.

8 (6) Provide the licensee's policy on cancellation and
9 refunds to each customer.

10 (7) In a manner established by rule of the licensing
11 authority, provide on the signature page, clearly and
12 conspicuously in boldfaced 10-point type or larger, the
13 following:

14 (a) The words "purchase price."

15 (b) The amount to be trusted.

16 (c) The amount to be refunded upon contract
17 cancellation.

18 (d) The amounts allocated to merchandise, services,
19 and cash advances.

20 (e) The toll-free number of the department which is
21 available for questions or complaints.

22 (f) A statement that the purchaser shall have 30 days
23 from the date of execution of contract to cancel the contract
24 and receive a total refund of all moneys paid for items not
25 used.

26 (8) Effective October 1, 2006, display in its offices
27 for free distribution to all potential customers, and provide
28 to all customers at the time of sale, a brochure explaining
29 how and by whom preneed sales are regulated, summarizing
30 consumer rights under the law, and providing the name,
31 address, and phone number of the department's consumer affairs

1 division. The format and content of the brochure shall be as
2 prescribed by rule. The licensing authority may cause the
3 publication of such brochures and by rule establish
4 requirements that preneed licensees purchase and make
5 available such brochures as so published, in the licensee's
6 offices, to all potential customers.

7 (9) Provide to each customer a complete description of
8 any monument, marker, or memorialization to be placed at the
9 gravesite pursuant to the preneed contract.

10 Section 35. Paragraphs (c), (e), (f), and (h) of
11 subsection (2) of section 497.550, Florida Statutes, as
12 renumbered and amended by section 118 of chapter 2004-301,
13 Laws of Florida, are amended, and paragraph (j) is added to
14 subsection (2) of that section, to read:

15 497.550 Licensure of monument establishments required;
16 procedures and criteria.--

17 (2) APPLICATION PROCEDURES.--A person seeking
18 licensure as a monument establishment shall apply for such
19 licensure using forms prescribed by rule.

20 (c) The applicant shall be required to make disclosure
21 of the applicant's criminal records, if any, as required by s.
22 497.142. ~~The application shall require the applicant to~~
23 ~~disclose whether the applicant or any of its principals have~~
24 ~~ever been convicted or found guilty of, or entered a plea of~~
25 ~~no contest to, regardless of adjudication, any crime in any~~
26 ~~jurisdiction.~~

27 (e) The applicant shall submit fingerprints in
28 accordance with s. 497.142. ~~The application shall require the~~
29 ~~applicant's principals to provide fingerprints in accordance~~
30 ~~with part I of this chapter.~~

31

1 (f) The applicant shall be a natural person at least
2 18 years of age, a corporation, a partnership, or a limited
3 liability company ~~formed prior to January 1, 2005, which~~
4 ~~limited liability company already holds a license under this~~
5 ~~chapter.~~

6 (h) The application shall be signed in accordance with
7 s. 497.141(12) ~~by the applicant if a natural person, or by the~~
8 ~~president of an applicant that is a corporation.~~

9 (j) Upon receipt of the application and application
10 fee, the licensing authority shall inspect the proposed
11 monument establishment facilities in accordance with rules of
12 the licensing authority.

13 Section 36. Section 497.551, Florida Statutes, as
14 created by chapter 2004-301, Laws of Florida, is amended to
15 read:

16 497.551 Renewal of monument establishment licensure.--

17 (1) A monument establishment license must be renewed
18 biennially by the licensee.

19 (2) A monument establishment licensee ~~that does not~~
20 ~~hold a preneed sales license as of 90 days prior to the date~~
21 ~~its monument establishment license renewal is due,~~ shall renew
22 its monument establishment license by payment of a renewal fee
23 established by rule not to exceed \$250.

24 ~~(3) A monument establishment licensee which as of 90~~
25 ~~days prior to its monument establishment license renewal date~~
26 ~~also holds a preneed sales license issued under this chapter,~~
27 ~~shall renew its monument establishment license by payment of a~~
28 ~~renewal fee determined by its total gross aggregate at need~~
29 ~~and preneed retail sales for the 12 month period ending 2 full~~
30 ~~calendar months prior to the month in which the renewal is~~
31 ~~required, as follows:~~

- 1 ~~(a) Total sales of \$1 to \$50,000, renewal fee \$1,000.~~
2 ~~(b) Total sales of \$50,001 to \$250,000, renewal fee~~
3 ~~\$1,500.~~
4 ~~(c) Total sales of \$250,001 to \$500,000, renewal fee~~
5 ~~\$2,000.~~
6 ~~(d) Total sales over \$500,000, renewal fee \$2,500.~~
7 ~~(3)(4)~~ Rules may be adopted providing procedures,
8 forms, and uniform timeframes for monument establishment
9 license renewals.

10 Section 37. Subsection (4) of section 497.552, Florida
11 Statutes, as created by chapter 2004-301, Laws of Florida, is
12 amended to read:

13 497.552 Required facilities.--Effective January 1,
14 2006, a monument establishment shall at all times have and
15 maintain a full-service place of business at a specific street
16 address or location in Florida complying with the following
17 requirements:

18 (4) It shall have facilities on site for inscribing
19 monuments and equipment to deliver and install markers and
20 monuments.

21 Section 38. Subsection (5) of section 497.553, Florida
22 Statutes, as created by chapter 2004-301, Laws of Florida, is
23 amended, and subsection (6) is added to that section, to read:

24 497.553 Regulation of monument establishments.--

25 (5) Commencing January 1, 2006, the failure of a
26 monument establishment to deliver and install a purchased
27 monument or marker by the date agreed in the sales agreement
28 shall entitle the customer to a full refund of all amounts
29 paid by the customer for the monument and its delivery and
30 installation, unless the monument establishment has obtained a
31 written agreement from the customer extending the delivery

1 date. Such refund shall be made within 30 days after receipt
2 by the monument establishment of the customer's written
3 request for a refund. This subsection does not preclude the
4 purchase and installation of a new monument from any other
5 registered monument establishment or ~~preneed sales~~ licensee.

6 (6)(a) A change in ownership shall be promptly
7 reported using forms and procedures specified by rule and may
8 require the relicensure of the licensee, including
9 reinspection and payment of applicable fees, as required by
10 rule.

11 (b) A change in location shall be promptly reported to
12 the licensing authority pursuant to procedures established by
13 rule. Operations by the licensee at a new location may not
14 commence until an inspection by the licensing authority of the
15 facilities, pursuant to rules of the licensing authority, has
16 been conducted and passed at the new location.

17 Section 39. Paragraph (b) of subsection (2) and
18 subsection (4) of section 497.554, Florida Statutes, as
19 created by chapter 2004-301, Laws of Florida, are amended, and
20 subsection (7) is added to that section, to read:

21 497.554 Monument establishment sales
22 representatives.--

23 (2) APPLICATION PROCEDURES.--Licensure as a monument
24 establishment sales agent shall be by submission of an
25 application for licensure to the department on a form
26 prescribed by rule.

27 (b) The applicant shall be required to make disclosure
28 of the applicant's criminal records, if any, as required by s.
29 497.142. The applicant shall submit fingerprints in accordance
30 with s. 497.142. The application shall require the applicant
31 ~~to disclose whether the applicant has ever been convicted or~~

1 ~~found guilty of, or entered a plea of no contest to,~~
2 ~~regardless of adjudication, any crime in any jurisdiction.~~

3 (4) RENEWAL; TERMINATION OF AUTHORITY.--

4 (a) A monument establishment sales agent license under
5 this section shall be renewed upon payment of a fee determined
6 by rule of the licensing authority but not to exceed \$250.

7 ~~Once issued, a monument establishment sales agent license of~~
8 ~~an agent not licensed to make preneed sales shall remain in~~
9 ~~effect without renewal until surrendered, or the sponsoring~~
10 ~~monument establishment terminates the agent's authority to~~
11 ~~sell on behalf of that monument establishment, or the license~~
12 ~~is revoked or suspended by the licensing authority for cause.~~

13 (b) The monument establishment whose officer signed
14 the sales agent application shall terminate that agent's
15 authority to sell on behalf of that monument establishment,
16 and the monument establishment in writing shall advise the
17 licensing authority of such termination within 30 days after
18 the termination.

19 (7) EFFECTIVE DATE.--The provisions of this section
20 shall be effective October 1, 2006.

21 Section 40. Section 497.555, Florida Statutes, as
22 created by chapter 2004-301, Laws of Florida, is amended to
23 read:

24 497.555 Required rules.--Rules shall be adopted
25 establishing minimum standards for access to all cemeteries by
26 licensed monument establishments for the purpose of delivering
27 and installing markers and monuments. In all cases, cemeteries
28 and monument establishments must comply with these minimum
29 standards.

30 Section 41. Paragraphs (d) and (f) of subsection (2)
31 of section 497.602, Florida Statutes, as renumbered and

1 amended by section 127 of chapter 2004-301, Laws of Florida,
2 are amended to read:

3 497.602 Direct disposers, license required; licensing
4 procedures and criteria; regulation.--

5 (2) APPLICATION PROCEDURES.--

6 (d) The applicant shall be required to make disclosure
7 of the applicant's criminal records, if any, as required by s.
8 497.142. ~~The application shall require the applicant to~~
9 ~~disclose whether the applicant has ever been convicted or~~
10 ~~found guilty of, or entered a plea of no contest to,~~
11 ~~regardless of adjudication, any crime in any jurisdiction.~~

12 (f) The applicant shall submit fingerprints in
13 accordance with s. 497.142. ~~The application shall require the~~
14 ~~applicant to provide fingerprints in accordance with part I of~~
15 ~~this chapter.~~

16 Section 42. Paragraphs (f), (h), and (j) of subsection
17 (2), paragraphs (a) and (b) of subsection (3), and subsection
18 (7) of section 497.604, Florida Statutes, as renumbered and
19 amended by section 129 of chapter 2004-301, Laws of Florida,
20 are amended, and paragraph (f) is added to subsection (9) of
21 that section, to read:

22 497.604 Direct disposal establishments, license
23 required; licensing procedures and criteria; license renewal;
24 regulation.--

25 (2) APPLICATION PROCEDURES.--

26 (f) The applicant shall be required to make disclosure
27 of the applicant's criminal records, if any, as required by s.
28 497.142. ~~The application shall require the applicant to~~
29 ~~disclose whether the applicant or any of the applicant's~~
30 ~~principals including its proposed supervising licensee has~~
31 ~~ever been convicted or found guilty of, or entered a plea of~~

1 ~~no contest to, regardless of adjudication, any crime in any~~
2 ~~jurisdiction.~~

3 (h) The applicant shall submit fingerprints in
4 accordance with s. 497.142. ~~The application shall require the~~
5 ~~applicant and its principals to provide fingerprints in~~
6 ~~accordance with part I of this chapter.~~

7 (j) The application shall be signed in accordance with
8 s. 497.141(12) ~~by the applicant if a natural person or by the~~
9 ~~president of an applicant that is not a natural person.~~

10 (3) ACTION CONCERNING APPLICATIONS.--A duly completed
11 application for licensure under this section, accompanied by
12 the required fee, shall be approved if the licensing authority
13 determines that the following conditions are met:

14 (a) The applicant is a natural person at least 18
15 years of age, a corporation, a partnership, or a limited
16 liability company ~~formed prior to January 1, 2006, which~~
17 ~~limited liability company already holds a license under this~~
18 ~~chapter.~~

19 (b) The applicant does or will prior to commencing
20 operations under the license comply with all requirements of
21 this chapter relating to the license applied for. The
22 applicant shall have passed an inspection prior to issuance of
23 a license under this section, in accordance with rules of the
24 licensing authority.

25 (7) CHANGES SUBSEQUENT TO LICENSURE.--Each licensee
26 under this section must provide notice as required by rule
27 prior to any change in location or control of the licensee or
28 licensed person in charge of the licensee's operations. A
29 change in control is subject to approval by the licensing
30 authority, and to reasonable conditions imposed by the
31 licensing authority, for the protection of the public to

1 ensure compliance with this chapter. Operations by the
2 licensee at a new location may not commence until an
3 inspection by the licensing authority of the facilities at the
4 new location, pursuant to rules of the licensing authority,
5 has been conducted and passed. Each licensee under this
6 ~~section must provide notice as required by rule prior to any~~
7 ~~change in location or control of the licensee or licensed~~
8 ~~person in charge of the licensee's operations. Any such change~~
9 ~~is subject to disapproval or to reasonable conditions imposed~~
10 ~~by the licensing authority, for the protection of the public~~
11 ~~to ensure compliance with this chapter.~~

12 (9) REGULATION OF DIRECT DISPOSAL ESTABLISHMENTS.--

13 (f) A direct disposal establishment shall retain all
14 signed contracts for a period of at least 2 years.

15 Section 43. Paragraphs (f), (h), and (j) of subsection
16 (2), paragraph (b) of subsection (3), subsection (7), and
17 paragraphs (i), (j), and (k) of subsection (9) of section
18 497.606, Florida Statutes, as renumbered and amended by
19 section 131 of chapter 2004-301, Laws of Florida, are amended
20 to read:

21 497.606 Cinerator facility, licensure required;
22 licensing procedures and criteria; license renewal;
23 regulation.--

24 (2) APPLICATION PROCEDURES.--

25 (f) The applicant shall be required to make disclosure
26 of the applicant's criminal records, if any, as required by s.
27 497.142. The application shall require the applicant to
28 ~~disclose whether the applicant or any of the applicant's~~
29 ~~principals including its proposed supervising licensee has~~
30 ~~ever been convicted or found guilty of, or entered a plea of~~
31

1 ~~no contest to, regardless of adjudication, any crime in any~~
2 ~~jurisdiction.~~

3 (h) The applicant shall submit fingerprints in
4 accordance with s. 497.142. ~~The application shall require the~~
5 ~~applicant and its principals to provide fingerprints in~~
6 ~~accordance with part I of this chapter.~~

7 (j) The application shall be signed in accordance with
8 s. 497.141(12) ~~by the applicant if a natural person or by the~~
9 ~~president of an applicant that is not a natural person.~~

10 (3) ACTION CONCERNING APPLICATIONS.--A duly completed
11 application for licensure under this section, accompanied by
12 the required fee, shall be approved if the licensing authority
13 determines that the following conditions are met:

14 (b) The applicant is a natural person at least 18
15 years of age, a corporation, a partnership, or a limited
16 liability company ~~formed prior to January 1, 2006, which~~
17 ~~limited liability company already holds a license under this~~
18 ~~chapter.~~

19 (7) CHANGES SUBSEQUENT TO LICENSURE.--Each licensee
20 under this section must provide notice as required by rule
21 prior to any change in location or control of the licensee,
22 or licensed person in charge of the licensee's operations. A
23 change in control is subject to approval by the licensing
24 authority, and to reasonable conditions ~~Any such change is~~
25 ~~subject to disapproval or to reasonable conditions~~ imposed by
26 the licensing authority, for the protection of the public to
27 ensure compliance with this chapter. Operations by the
28 licensee at a new location may not commence until an
29 inspection by the licensing authority of the facilities,
30 pursuant to rules of the licensing authority, has been
31 conducted and passed at the new location.

1 (9) REGULATION OF CINERATOR FACILITIES.--

2 ~~(i) There shall be adopted by rule criteria for~~
3 ~~acceptable cremation and alternative containers.~~

4 (i)(j) There shall be rules adopted requiring each
5 facility to submit periodic reports to the department which
6 include the names of persons cremated, the date and county of
7 death, the name of each person supervising each cremation, the
8 name and license number of the establishment requesting
9 cremation, and the types of containers used to hold the body
10 during cremation.

11 ~~(j)(k)~~ Each cinerator facility must be inspected prior
12 to the initial issuance of its license and annually thereafter
13 ~~issuance and renewal of its license~~ and shall:

14 1. Maintain one or more retorts for the reduction of
15 dead human bodies.

16 2. Maintain refrigeration that satisfies the standards
17 set by the Department of Health and contains ~~a~~ sufficient
18 refrigerated space ~~number of shelves~~ for the average daily
19 number of bodies stored, if unembalmed bodies are kept at the
20 site.

21 3. Maintain sufficient pollution control equipment to
22 comply with requirements of the Department of Environmental
23 Protection in order to secure annual approved certification.

24 4. Either have on site or immediately available
25 sufficient gasketed ~~sealed~~ containers of a type required for
26 the transportation of bodies as specified in applicable state
27 rules.

28 5. Maintain the premises in a clean and sanitary
29 condition.

30 6. Have appropriate Department of Environmental
31 Protection permits.

1 ~~7. Retain all signed contracts for a period of at~~
2 ~~least 2 years.~~

3 Section 44. Subsection (3) of section 497.607, Florida
4 Statutes, as renumbered and amended by section 132 of chapter
5 2004-301, Laws of Florida, is amended, and subsection (4) is
6 added to that section, to read:

7 497.607 Cremation; procedure required.--

8 (3) Pursuant to the request of a legally authorized
9 person and incidental to final disposition, cremation may be
10 performed on parts of human remains. ~~This subsection does not~~
11 ~~authorize the cremation of body parts as defined in s.~~
12 ~~497.005.~~

13 (4) The licensing authority shall by no later than
14 October 1, 2008, adopt rules regarding the cremation of human
15 remains by chemical means. Such rules shall define cremation
16 by chemical means, and shall specify such acceptable or
17 required processes, equipment, and procedures for cremation by
18 chemical means as are reasonably necessary for the protection
19 of the public health, safety, and welfare. Cremation by
20 chemical means shall not be authorized in this state except
21 when done in accordance with such rules and by a cinerator
22 facility licensed under this chapter. In regard to unclaimed
23 human remains delivered pursuant to s. 406.50 to the control
24 of the anatomical board of this state headquartered at the
25 University of Florida Health Science Center, the provisions of
26 this subsection and chapter shall not be construed to prohibit
27 the anatomical board from causing at any time before or after
28 October 1, 2008, the final disposition of such unclaimed human
29 remains through cremation by chemical means or otherwise, when
30 performed in facilities owned and operated by the anatomical
31 board or the University of Florida Health Science Center

1 pursuant to and using such processes, equipment, and
2 procedures as the anatomical board determines to be proper and
3 adequate.

4 Section 45. Section 152 of chapter 2004-301, Laws of
5 Florida, is amended to read:

6 Section 152. (1) The rules of the Board of Funeral
7 Directors and Embalmers and of the Department of Business and
8 Professional Regulation relating to the Board of Funeral
9 Directors and Embalmers or implementation of chapter 470,
10 Florida Statutes, which were in effect at 11:59 p.m. on the
11 day prior to this act taking effect shall become on the
12 subjects which they address the rules of the Department of
13 Financial Services and the Board of Funeral, Cemetery, and
14 Consumer Services and shall remain in effect until amended or
15 repealed in the manner provided by law.

16 (2) The rules of the Board of Funeral and Cemetery
17 Services which were in effect at 11:59 p.m. on the day prior
18 to this act taking effect shall become on the subjects which
19 they address the rules of the Department of Financial Services
20 and the Board of Funeral, Cemetery, and Consumer Services and
21 shall remain in effect until specifically amended or repealed
22 in the manner provided by law.

23 (3) The rules of the Department of Financial Services
24 relating to chapter 497, Florida Statutes, which were in
25 effect at 11:59 p.m. ~~P.M.~~ on the day prior to this act taking
26 effect shall continue in force until thereafter repealed or
27 amended pursuant to chapter 120, Florida Statutes, and this
28 act.

29 Section 46. Subsection (3) of section 626.785, Florida
30 Statutes, is amended to read:

31 626.785 Qualifications for license.--

1 (3) Notwithstanding any other provisions of this
2 chapter, a funeral director, a direct disposer, or an employee
3 of a funeral establishment which holds a certificate of
4 authority pursuant to s. 497.405 may obtain an agent's license
5 to sell only policies of life insurance covering the expense
6 of a prearrangement for funeral services or merchandise so as
7 to provide funds at the time the services and merchandise are
8 needed. The face amount of insurance covered by any such
9 policy shall not exceed ~~\$12,500~~ \$7,500.

10 Section 47. Subsection (7) is added to section
11 163.3187, Florida Statutes, to read:

12 163.3187 Amendment of adopted comprehensive plan.--

13 (7) Notwithstanding any other provision of law, a
14 local government may not approve a plan amendment or change in
15 zoning designation which allows a funeral establishment,
16 cremation facility, or other noncemetery facility to be
17 located on cemetery lands.

18 Section 48. Sections 497.275, 497.388, and 497.556,
19 Florida Statutes, are repealed.

20 Section 49. This act shall take effect October 1,
21 2005.